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# e.b.u. review

sound and television broadcasting news

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# E.B.U. REVIEW

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*By decision of the Administrative Council in Rome on 30th May last, the European Broadcasting Union is again publishing Part A (Technical) and Part B (General and Legal) of the* E.B.U. Review *in alternate months. As a result, the* Review *will become a monthly periodical, which it is hoped will do much to increase circulation and stimulate interest. Part B will now be appearing every odd month, and this number which is being published one month earlier than usual is therefore dated July instead of August.*

*The fifth anniversary of Eurovision has already been the subject of legal and statistical items in No. 55 B, and we are now completing this information with a series of articles devoted to programme aspects. In view of the importance of this anniversary for European television and the growing number of programme exchanges involved, we felt justified in devoting two successive numbers to a description of the scope of the enterprise.*

*We should at the same time like to draw our readers' attention to No. 55 A of the* Review, *which is devoted to the fifth anniversary of Eurovision viewed from the technical angle, and we take this opportunity of paying tribute to the engineers and technicians from every country whose perseverance and foresight brought Eurovision into being.*

*Editeur responsable :* Ch. Gilliéron, 1, rue de Varembé, Geneva (Switzerland)

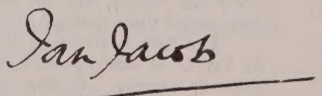
## MESSAGE FROM THE PRESIDENT OF THE UNION

*Eurovision, whose fifth anniversary we celebrated on June 6, is something more profound than an exchange of programmes—or even the remarkable engineering techniques that make it possible. We who work in Eurovision know that when we go to a planning conference, or collaborate on a programme, we are taking part in a continuing adventure. And we like to think that the programmes we exchange are links in that chain of understanding between our countries which is so vital to our future.*

*June 6, 1954, marked a major step forward in the exchange of television programmes among neighbouring countries, for it was during the month which followed that eight services, namely those of Belgium, Denmark, France, Italy, the Netherlands, Switzerland, Western Germany and the United Kingdom, linked their television networks in order to share programmes which were originated at various times in each of these countries. It was already a far cry from the early 1950's when it was an adventure to transmit a television programme over 200 or 300 kilometres. The problem of conversion of the pictures from one standard to another had not then been tackled; and no machinery existed for co-ordinating the exchange of programmes. How great a debt do we owe, therefore, to those who had the vision to realise the possibilities, and whose ingenuity enabled them to overcome the immense difficulties—programme, administrative, legal and technical—until today we have a smoothly running machine under the unifying hand of the E.B.U.*

*I feel, too, that this is the time to remember those earlier days, beginning with the first cross-Channel television in 1950. While much of that early spadework was done by RTF and the BBC, it is well to remember the credit that must also go to those other services, particularly in the smaller countries, who started actively to participate in Eurovision, with all its demands on their programme and technical staffs, at the very moment when they were bearing the stresses and strains of getting their own domestic services going. And we remember too with gratitude the debt that we broadcasters owe to the postal authorities in providing and operating vision links for us and in helping us to solve the many problems which have arisen in connection with sound, vision and communication circuits.*

*Eurovision is no longer a novelty in the television programmes of the countries of Western Europe. I look forward with pleasure to the day—not, I feel sure, far distant—when it will be regarded as a normal and indispensable element of all the television networks in Western Europe and even further afield.*



# GENERAL SECTION

## EUROVISION — A SIMPLE IDEA THAT WORKED

*by MARCEL BEZENÇON*

*Director-General of the SSR*

*Chairman of the EBU Programme Committee*

The direct relay over the European network of the *Fête des Narcisses* at Montreux on 6th June 1954 saw the birth of Eurovision, and the World Football Championships in Switzerland, following fast on its heels, administered the necessary stimulant. It looked a healthy infant, in spite of the danger signals that promised serious trouble ahead—or so the pessimists would have it.

In short, the idea seemed a simple one and the world is full of ideas; but when it comes to making them work, that is a very different matter! The celebration of the 5th anniversary of Eurovision is in reality the celebration of a success that is due to the efforts of men of good will—the prime movers of radio and television in Western Europe. And how many of them are there who have not given up their own private interests for the common good in the course of the last five years?

Eurovision is in line with the ideal the European of today is in pursuit of, now that the boundaries of man's horizon are those of his planet—when he is not aiming at the moon or dreaming of Mars. To be sure, looked at on the map of the world Eurovision covers a very modest expanse of territory; the tip of a peninsula or, to put it better, the cradle of our civilisation. Seen from afar, its existence seems not only normal but so inevitable that it would be absurd if it did not exist. To reason thus in ignorance, however, comes of knowing little of a Europe that has long been the centre of the world and is struggling today to maintain its greatness by dint of parading a fierce concern for its peculiarities and for national privileges rendered often invalid by a surfeit of wars. The artificers of Eurovision have paid no heed to this, but in their desire to make their joint project a success have resolutely stepped over the stumbling blocks that stand in the way of many an effort of general interest. They had no mind to be like the sages of Byzantium, engaging in fierce argument as to the sex of the angels while the enemy beleaguered the city.

It might be said, then, that Eurovision was made for Europe, in spite of Europe. If it had had to pass through the Parliamentary sieve, it would not be celebrating its 5th anniversary today but would still be bogged down in theoretical discussions as to its relative merits and demerits, and we might even be on the point of beating a retreat in the face of the difficulties that had piled up in the long run. Who knows? We may have been lucky that some people in the early days did not believe in the

(Photopress Zürich)

Mr. MARCEL BEZENÇON

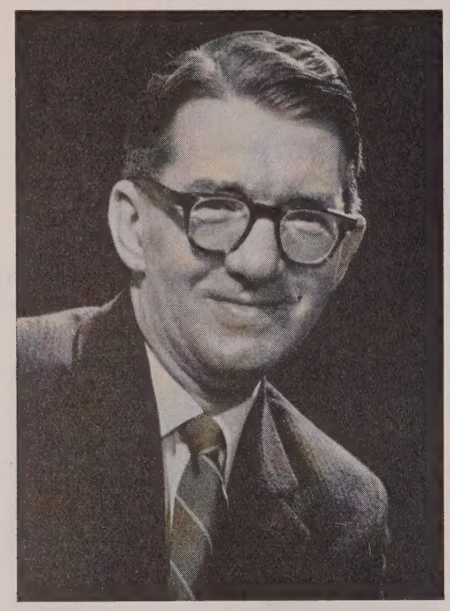
importance of this network, stretched out over half a continent, bearing images of life and of truth.

* * *

"Images of truth" is no exaggeration of the facts. I believe I am speaking for the many directors of radio and television organisations when I say that all are aware of the importance of the social, ethical and cultural problems raised by modern media of communication.

Are they superintending an advance towards better things or a retreat to worse? Man has grown suspicious. The succession of technical miracles that is sweeping him along and fashioning his fate may be a source of nourishment for his pride but at the same time it fills him with qualms. He sometimes feels that there is more calculation than there are morals in his genius, and he wonders

whether in the belief that he is freeing himself from one form of slavery he is only tying himself up to another whose chain is all the heavier for being golden. Each mystery he solves brings him up against an even greater



(Photo BBC)

Mr. CECIL MCGIVERN, C.B.E.
*Deputy Director of Television Broadcasting, British Broadcasting Corporation*

one, and his anxiety grows when he looks back over the path his discoveries have led him to tread and finds he has sometimes lost his peace of mind and his concern for his soul on the way. It is as if with every step man takes some primordial fate were pushing back the horizon of the paradise lost he is trying to regain.

Radio, like the Press—we know only too well—has the makings of a terrible weapon of war. It is not necessarily the vehicle of truth when private interests demand a travesty of the truth. It has its own way of making history, for the facts it broadcasts from its loudspeakers are often shaped by private opinion. There is adequate reason for not underestimating the honest man's apprehension in the face of such phenomena.

By the simple nature of its direct relay of events, Eurovision is not concerned with stuffing the brain with false stories. Its aim is to capture " life " and it passes beyond the frontiers, presenting the facts with artless simplicity. It makes no claim to art which, whatever the form, is no more than a method of self expression.

From the moment it sets its cameras up, Eurovision is ready to bring us the facts, plain and unvarnished. Did someone not make the claim that Hitlerism would have misfired much sooner if television had been widespread in the years before the war? A documentary made by the BBC would seem to bear out this hypothesis. The sight of a führer gesticulating, hurling invective, grotesque, in front of a formation of automatons in uniform would have shown effectively the repulsive inhumanity of National Socialism. The pseudo-magnetic quality of the speaker vanishes, leaving only the ridiculous. And why? Because the small screen, unlike the cinema screen, caters for the individual, not the crowd. Nothing is more revealing than a face in close-up. It shows the sincerity of a man or his guile. Television is often accused of reinforcing the " mass complex " which the European of the West so rightly fears. Who can say whether Eurovision with certain of its direct relays is not administering a salutary corrective by showing the individual the true picture of what is going on?

It is perhaps too early to be sure, but it is something that we should ask ourselves in a few years' time.

I should not like to have it thought, however, that I am not aware that television can also be a deadly weapon of propaganda and controlled information. If it is in too close contact with the Government, it inevitably tends to become identified with the Government. The politician can make use of it to strut about to his heart's content, if he is in control. But I am talking about Eurovision here, and more especially the events that are relayed live after being offered to the various foreign countries which are at liberty to take the relay or not, as they please. They are careful in their choice not to

(Photo Kurt Bethke)

Mr. E. BECKMANN
*Intendant, Hessischer Rundfunk*

swamp their countries with programmes full of the propaganda of other countries. They pay particular attention to the documentary aspects of the broadcast and they very often provide their own commentaries, giving their viewers in this way a picture that is very close to the truth, if not the whole truth.

This is a very important question because television seems to have a fabulous future in store and, as a French journalist has put it, the magnitude of the revolution this phenomenon is bringing about in customs and manners demands that it be watched more closely. Or in the words of a set owner: " The world is on your doorstep when you have the films in your own home. You feel you are in the picture. "

That is, of course, what Eurovision does. It " puts a man in the picture " by showing him the world as it really is. It helps him to take part and allows him to judge for himself, no longer leaving him to the mercy of the commentators, the gossips, and the " loud speakers " that embellish or distort at will.

* * *

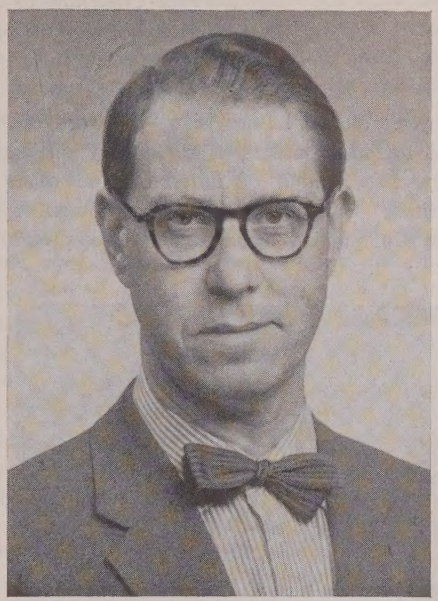
For the moment, Eurovision is still feeling its way. It is not always sure of itself and there are many " stop " signs along the road. It frightens some of the performers' unions; it continues on its way, discussing rights and fees, with its clients at every milestone. But this is not surprising, because the ground is new and there are no legal precedents. Besides, isn't television itself still looking for the forms of expression that suit it best? Television drama is a mythical reality, trying to trace a parallel between the film and the stage work. The sports commentators have not all discovered exactly how to rid themselves of the traces of sound broadcasting.

At present there are great hopes for the use of the European network for the daily exchange of newsfilm between organisations. This is an undertaking that fits the very nature of television and if it succeeds it will be one of the most obvious reasons for the existence of Eurovision. It will not just be " a window on the world ", as people have been saying for the past few years, but ten, twenty, windows thrown open to the whole panorama of human agitation.

But let us not delude ourselves; Eurovision has its limitations, especially in the linguistic sphere. Broadcast drama is affected by these limitations and stops short at the frontiers of the language used. And although music is a universal language, it has to be admitted that it is better suited to sound radio than to visual. In spite of the trimmings often used to deck it out, it rarely makes what might be called a first-rate programme on television. As for the cultural broadcast, generally speaking and in spite of efforts to extend its scope on the continent, it seems to be less adaptable than the spiritual, as Eurovision gets on very well with the Church.

And what about opera? Can it be successfully presented on the small screen? Eurovision is intending to try out a new venture in the form of a contest organised in Salzburg. Then there is the Prix Italia with its awards to documentaries, the Eurovision Song Contest, and other joint broadcasts.

Most are still mere seedlings and the future will tell whether a bumper crop can be expected after they have been weeded out. That is not to say that such productions are not in many cases highly sucessful even now, but it is abundantly clear that the viewer appreciates more than anything else the live relays of important events taking place in Europe. This is where Eurovision justifies its existence and consolidates its position. As



Mr. Henrik Hahr
*Programme Director, Sveriges Radio*

Sir Ian Jacob, the President of the Union, said, Eurovision's final aim is at one with the very *raison d'être* of television, that of ensuring the instantaneous transmission of topical events. It goes beyond mere entertainment and becomes a dispenser of pure direct information; it grows into a veritable necessity.

I shall not go so far as to say that for this reason nations will understand each other better, as used to be claimed whenever a new medium of communication was inaugurated. That old candle can be snuffed. But it is possible that a feeling for the human element may become more generalised, the frontiers of nationalism less wide, and the fresh air may circulate more freely. It is blowing up so nicely already that some of the countries nearer the East would not object to leaving the door open to the draught. America too shows signs of moving. For some time now it has been studying ways of establishing a television link with the European continent. On a take it or leave it basis, of course.

These are the problems that are now under discussion. They pose a number of additional questions, and there is every chance that next year, perhaps, we may see the union of Eurovision with a transatlantic partner.

It is obvious, then, that things are moving at a good pace and nothing, it seems, can prevent the enterprise from forging ahead, except its possible attraction for certain controlling interests.

# EUROVISION

*by JEAN D'ARCY*

*Television Programme Director of the R.T.F.*
*Vice-Chairman of the E.B.U. Programme Committee*
*Rapporteur of Working Party GTV/2 of the E.B.U.*

Five years already! Eurovision—the word has made a name for itself and now has a very distinguished posterity, if we think of Euratom, and other such appellations. George Campey, the journalist, now with the BBC publicity department, can be proud of the

Mr. JEAN D'ARCY

name he gave in 1954, on behalf of public opinion, to a creation which its creators were at a loss to know how to label. The BBC spoke about " Continental Exchanges" (with all the distrust and fascination, the uneasiness and superiority which this epithet has come to imply ever since England discovered the Continent); the RTF looked at it from the administrative angle and spoke of " European Exchanges of Television Programmes "; in Geneva they talked in proper banking style about a " *Bourse de programmes* "; and meanwhile the specialists in international institutions who had already invented UN, NATO, UNESCO and FAO were burnishing their sigla. It is highly encouraging when public opinion takes it upon itself to bestow a name on an international organisation. It points to a need, simple and comprehensible, that has been satisfied, and is the sign of an organisation that is all set to become an institution almost before it has been thought of.

The official inauguration took place before several millions of Europeans on 6th June 1954, but Minervas such as this don't spring fully armed from the brain outside Greece (not yet one of our members but due, we hope, to join us shortly), and we were no Jupiter.

### *EUROVISION IN THE STONE AGE*

This is the history, or one might say the pre-history, of events. In 1950 Norman Collins and Cecil McGivern, who have been longer on the job than any of us, thought it was time they emerged from Alexandra Palace, despite the wonders they were working there. They felt that a new landing on the Continent would be calculated to give their country fresh confidence. Calais and its burghers, for whom England has always had a certain fondness, were singled out and with the help of the engineers the first link with the Continent was established in August 1950. That, say some at the BBC, is how Eurovision began. Nothing of the sort! the RTF retort. Eurovision is much more than a technical achievement and that particular programme was simply the first of the unilateral programmes, a type that the BBC has since then somewhat developed, as the statistics show. The proof is, that Imlay Watts was already there!

In 1951, encouraged by this success, the BBC and the RTF decided to pool their resources and organise a joint venture. During the whole winter of 1951-52 preparations went ahead actively for a joint RTF/BBC Franco-British week which was held from 8th to 14th July 1952. That, say the RTF, is when the seed of Eurovision was sown. All the components were there: the pooling of resources, co-production of joint programmes, standards converters, simultaneous commentaries, and high cultural and human motives. The reader can judge for himself by casting an eye over the historic official communiqué issued at the time, now imbued with the fragrance of age:

" During the Franco-British television week, 17 transmissions consisting for the most part of outside broadcasts will be produced jointly in Paris by the French and British television services between 8th and 14th July for viewers in both countries.

" This will be the first time in the history of television that the same programme has been addressed to audiences of different languages and nationalities. The purpose of the week is of course to give British viewers some insight into the everyday life of Paris, both at work and at play, but at the same time this attempt at international

cooperation will be equally interesting to French viewers, called upon in this way to participate in the first experiment in establishing direct human contact beyond the frontiers by means of this new medium of communication —television..." (Here follows a summary of the programmes).

" All these programmes will be televised with the help of RTF mobile reporting equipment and additional facilities supplied by an English firm. British producers and BBC commentators will assist their French colleagues

Mr. EDUARD HAAS
*Television Director, Société Suisse de Radiodiffusion*

in this series of broadcasts which have been prepared jointly by both services. "

Everything was there, as I said, even to the usual breakdowns in such cases—despite the fine performance of Martin Pulling, T. H. Bridgewater and S. Mallein—and the criticism in the Press, which has had ample opportunity since then to practise on Eurovision. But all this was nothing, the other television services contended: Europe *à deux* is not really Europe.

The BBC and the RTF were encouraged by their success, however, and at the end of the Franco-British week, on 17th July 1952, they announced at a joint Press conference in Paris that the Coronation of H. M. Queen Elizabeth would be relayed in France in June 1953. In September 1952, the television services of the Netherlands and Germany asked the BBC if they might also participate in the relay of this ceremony, and the INR which had not yet started its television service announced that it would put its technicians and equipment at the disposal of the group so that the signals could be routed across its territory. The whole of the winter of 1952-53 was devoted by the engineers of all five countries to joint preparations for this important event, whose success on 2nd June 1953 is now common knowledge.

Surely this was all that was needed. Not quite, said the EBU: it had not yet become a regular institution. In July 1953, the RTF made a proposal to the other four participants for a joint week of programmes to be given at Christmas. The idea was taken up, a technical meeting was held in London in July and a programme meeting in September. At the last of these meetings, it was realised that if we were to wait for a little instead of preparing something jointly for Christmas, there would soon be eight television services instead of five, when we were joined by Switzerland, Italy and possibly Denmark, and, secondly, the World Football Championships in Switzerland in June 1954 would present an excellent opportunity for inaugurating something of real importance. At a series of meetings in Paris in January 1954, engineers and programme directors from the eight television services fixed the dates for a month of joint exchanges and at the same time started to make plans for another session of exchanges at a later date and the formation of what the Press at that time were calling a European television network.

In November 1953, however, the EBU, which numbered among its members all the organisations already mentioned, and which was still free of the anxieties that television was later to cause it, met in Monte Carlo. Three years before, our brilliant and accomplished Chairman, Marcel Bezençon, taking up an idea he had already submitted to UNESCO and the UIR, had proposed to the Administrative Council the creation of a system of television programme exchanges. This proposal which was both fine and realistic was not considered feasible by certain persons and they fought it vigorously, for at that time the E.B.U. functioned under the system of complete independence of the organisations and did not concern itself at all with programmes, and very little with television. The result, however, was the setting up of a television study group under the chairmanship of Marcel Bezençon who continued to fight within the EBU for the establishment of a system of coordinated programme exchanges at the European level. The success of the relay of the Coronation ceremony and the numerous meetings of programme directors who were getting together outside the EBU to plan various projects gave added weight to Marcel Bezençon's proposal. The EBU decided therefore at Monte Carlo to set up a Programme Committee and to invite its young television directors not to meet among themselves outside this Committee whose competence extended both to television and to sound broadcasting.

The first meeting of the Programme Committee was held in Geneva in February 1954, and Working Parties GTV/1 and GTV/2 were formed at the meeting [1]. There-

[1] Mr. M. Bezençon was appointed Chairman of the Programme Committee, and Mr. J. d'Arcy and Mr. R. McCall Vice-Chairmen. Mr. S. Pugliese was asked to take over the chairmanship of GTV/1 (exchanges on film) and Mr. d'Arcy that of GTV/2 (direct exchanges). (Ed.)

after, at the instance of the Committee the work that had hitherto been done in a semi-official capacity by the television programme directors, such as the project aiming at a month's joint European programmes, was transferred to these bodies. The plan for this month of joint programmes was finally drawn up in Cannes in March 1954, this month of June 1954 whose anniversary we are now celebrating and to which public opinion gave the name of EUROVISION. This time the institution was well and truly born, baptised and adopted by the European Broadcasting Union.

### *EUROVISION IN MODERN TIMES*

Viewers in Europe saw 19 programmes produced by 8 countries between 6th June and 4th July. The first programme given at Whitsun was the relay of the *Fête des Narcisses* in Montreux, followed an hour and a half later by a visit to the Vatican where Pope Pius XII addressed viewers of the eight member countries of Eurovision in turn in their own languages.

In the eyes of the public, it was an unqualified success. The Daily Express splashed over 6 columns the heading " And now for world television ", and both the British and Continental Press hailed it as the triumph of Eurovision.

There followed 17 programmes of which 10 were relays from Switzerland of matches for the World Cup that won popular success for Eurovision. At the same time the public's feeling that there was something miraculous about it all gradually wore off and Eurovision became a commonplace.

At the meeting of the Programme Committee held next at Sestri Levante in July, the conclusions drawn from this month of exchanges were optimistic. The Planning Sub-Group, Eurovision's executive body, was set up under the chairmanship of Eduard Haas, with Imlay Watts and Heinz von Plato, and plans for the future were drafted. It was decided to inaugurate regular exchanges from then on, without going in for systematic production of exceptional programmes.

The centralisation of offers and requests became the responsibility of the Administrative Office, and thanks to Léo Wallenborn, joined a year later by Henk Maas, the prodigious task was performed which made it possible for Eurovision to lead the active life that has become familiar to us.

Since the historic date of 6th June 1954, other television organisations have joined us: Austria at the end of 1955, Luxembourg and Monte Carlo in 1956, the ITA in 1957, and Sweden in 1958. The number of television organisations now taking part in direct exchanges on Eurovision is 13 and among them they have exchanged 806 programmes, representing 981 hours of broadcasting as at 31/12/58.

Of these programmes, statistics show that about 62% were sports transmissions and 12% actualities, which are obviously the easiest to broadcast as they simply require commentaries in the various languages. Variety, music, drama and cultural programmes took up 26% of programme time.

The Eurovision network has also been used intensively, however, for exchanges between two countries or for joint productions between countries belonging to the same linguistic community, and in the case of these bilateral programmes and joint productions the proportion of culture to information is reversed.

### *PROBLEMS THAT HAD TO BE SOLVED*

In another article of the *E.B.U. Review*[1], Martin Pulling deals with the technical difficulties which have been surmounted by the engineers of the different organisations and those of the PTT at the instigation of the EBU Technical Committee and its Chairman, Mr. E. L. E. Pawley.

These difficulties were tremendous and the fact that they have been solved is certainly Eurovision's major triumph. My knowledge of some of these difficulties may, I think, allow me to express my thanks here to all those who made this network possible, and first and foremost to Martin Pulling of the BBC, Rapporteur of Working Party L, Stéphane Mallein of the RTF, Rapporteur until recently of Working Marty M, and the EBU Technical Centre, with Henri Anglès d'Auriac and then Georges Hansen assisted by Jack Treeby Dickinson and E. Griffiths, all of whom have made it possible for programme directors to work out their most complicated projects.

In 1954, I believe there were three main technical problems taking up their attention: standards conversion, the international junctions to be established between the various networks, and central technical coordination. These were supplemented by a fourth problem which was also to be supremely important, as is usual in television, and that was the problem of sound.

Standards conversion, a major problem in view of the three main systems in use in Europe (405, 625 and 819 lines) was solved in 1952 when the BBC and the RTF worked out simultaneously and separately for the Franco-British week a converter that enabled the RTF from then on to stop using both the 441—and the 819—line systems at the same time. A converter was functioning in Cassel in 1952. Two were set up, one in Paris and the other at Breda, for the Coronation, and by June 1954 four had been set up. Since then, the technique of conversion has made considerable advance and converted pictures no longer have that rather glaucous look of the early days.

In 1954, there were national television networks making it possible to route signals to the various transmitters but they stopped short at the frontiers. All these networks had to be joined together.

One of the most important links was that between England and the Continent. It was constructed in 1954 by the RTF and the BBC from Lille to Dover and London, provisionally at first and later as a permanent

[1] *E.B.U. Review* No. 55 *a*.

link. Links were likewise established between France and Belgium, Belgium and Holland, Holland and Germany, Germany and Switzerland, Switzerland and Italy, and Denmark and Germany. At the time it was not in fact a network complete with "meshes", but a chain, and one of the first results of this chain system was to

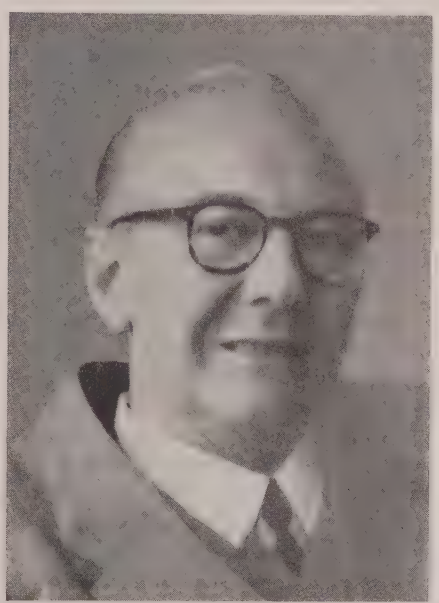
(Photo Otto Tomann)

Mr. Gerhard Freund
*Television Director, Österreichischer Rundfunk*

bind us closer together. If one of us was to be able to take a programme his neighbour " up-stream " had to accept it on his territory. A programme from Italy, to be seen in Paris, had to be transmitted in Switzerland and Germany to Swiss and German audiences. Today the network does exist and the "meshes" have been formed all over. France and Belgium are linked direct with Germany without having to pass through Holland; Switzerland and Italy direct with France, etc., and at the same time two-channel and even four-channel links have been developed making it possible to route two programmes simultaneously. The only problems now are those met by the countries at the " fringes " of the network, such as the Scandinavian countries and Austria which are still dependent on Germany, but these difficulties will be rapidly overcome with the construction of new relay stations.

The need became apparent for a centre to control and coordinate the activities of the network and this was created and installed in 1954 at the top of the Belfry in Lille. Many of us can still remember these early days when we officiated in the midst of innumerable lifts and stairs, Stéphane Mallein on the one side and Imlay Watts on the other, surrounded by telephones labelled London-Paris-Brussels-Cologne-Milan, etc., standing by for breakdowns, correcting signals, keeping an eye on time tables and connections. Since then, this centre has been transferred to Brussels, the stairs and the lifts are still there, and the telephones, but the installations are now situated in the Dome of the Palais de Justice, much improved and more permanent. The EBU Technical Centre and the INR are in charge and Jack Treeby Dickinson, E. Griffiths and their colleagues see to the functioning of the centre, climbing up and down the stairs of the Dome at night so that Europe may be able to see itself. The day will certainly come when there will be no more stairs to climb and the lifts will go right up to the top in the Palace which Eurovision will build to house its " brain ".

On the programme side, the difficulties were less spectacular but no less great. To take languages first: the eight television services participating at the start represented among them 6 basic languages. In Western Europe, all of which is still not in the network, at least 14 different languages are spoken. Simultaneous commentaries were obviously the only solution and for all programmes each country or linguistic group sent a commentator who was free to comment in his own fashion on the picture which all of his colleagues were



Mr. Jens Fr. Lawaetz
*Television Director, Danmarks Radio*

using. This meant that our engineers and those of the PTT were faced with problems almost more difficult than for sound radio and we had to make some harsh rules: no visual interviews, and no programmes in which the dialogue forms part of the action. That explains why there is such a high proportion of sports programmes and actualities in our statistics. The " guide-line " principle was tried with the commentators staying in their own countries and commenting in the

studio " off-tube " on the basis of a standard commentary in English or French supplied from the point of origin of the programme. But this type of commentary is very difficult and impersonal and has not been used very often.

Then there was the nature of the programme. It is considered good form when making official speeches to speak of the picture in terms of an international language. Actually nothing could be further from the truth. The Anglo-Saxon, Latin, Scandinavian and Germanic races do not use pictures in the same way to communicate ideas. The subject is not divided up according to the same rhythmic patterns, nor is living matter tackled in the same way. Their tastes are not identical and they simply don't see the same thing when looking at the same picture. It is possible perhaps to think of the picture as an international language some time in the future, but certainly not at present. A brilliant theme for a broadcast that seems lively and attractive to the Latin is quite unbearable to the English person; a programme that is thought highly of in one place is forbidden in another. Eurovision became a school for us where we learned tolerance and understanding of others. The difference in the stages of development of the television organisations was another very real obstacle. A programme that had become a commonplace in one country was still considered to be something out of the ordinary in another. Professionals though we were, using the same words, we were not speaking the same language and those who had been longest on the job soon gave up trying to describe their experiences to new-comers. Youth had to have its fling and the same mistakes had to be made so that we might all have common knowledge.

The legal problems were also tremendous and if it had not been for the help of the Legal Committee under the chairmanship of the late Maitre de Vries and now Mr. Maurice Lenoble, and the advice of the EBU Legal Adviser, Mr. G. Straschnov, we might have got ahead much more quickly but we should have been halted just as quickly! National legislation and jurisprudence on the subject of television differ greatly; the position and the reactions of the unions, syndicates, associations, federations and confederations which group all who are associated with creative work, interpretation, show business, sport and news in the different countries of Europe are astonishingly varied in terms of Roman or Germanic law, history, customs, politics or simply national temperament. A show which can be transmitted in one place is forbidden in another and the search for the least common denominator, the famous compromise on which so many reproaches are heaped, is often for the time being the only way to discover a basis for future legislation.

Financial problems were a source of preoccupation to us from the start, they still are and always will be. Television is a costly business at any time, but Eurovision is even more expensive and the outlay for a programme that is to be offered to European audiences is considerable. From the beginning, the idea of sharing expenses and dividing up certain costs was accepted, but at the same time the notion of " big " and " small " television organisations emerged, the distinction between " rich " and " poor ", services that had made sufficient progress to be able to pay and others only starting out that could not—a subjective notion indeed and one that has to be reviewed periodically in the light of the essential driving force of Eurovision: community of interests. •

### *A BACKWARD GLANCE AND A LOOK INTO THE FUTURE*

This then was how Eurovision took shape. If we try now after this brief and rapid summary of events to define the motives that prompted us, they can probably be reduced to two.

First there was the desire to get the maximum yield out of television. For many people television is only an improved method of delivering sound and pictures in the home. For us it meant much more; it was a remarkable instrument of knowledge and exploration and there was no point in having conquered time and space only to hang around the suburbs of our capital cities. We all felt it was our bounden duty to go as far afield as possible in the search for good pictures which would enable our viewers to discover the world that lay at their doorstep.

Furthermore, we were all in the same position, without studios or sufficient equipment to produce the programmes we needed. The idea of pooling our resources and thus making it possible for each of us to be able to use, in addition to the equipment available on his own territory, other facilities in London or in Rome seemed only right and proper. It was no longer simply the idea of exchanges that prompted us, but the need to share and to produce programmes in cooperation with each other. With the European television network in its present form, Eurovision is not simply a matter of programme exchanges—a formula that is now out of date—but in fact a system of joint production.

We had indeed discovered one of the essential laws of television: like many other modern inventions, it is no longer on the scale of our European countries. Television is now continent-wide; both from the creative angle and from the point of view of profitability, it demands a whole section of the universe and requires the assistance of millions of human beings in order to exist.

This Continent of ours is not however an undivided whole. Composed of many different nationalities, it lacks unity, but it is probably not desirable that things should be otherwise. The richness of our resources stems from our diversity, our vitality is born of our differences, and these differences must be preserved for they are part of our assets. As long as there are frontiers, television will to some extent be an attribute of national sovereignty; there was no thought of giving up our liberties. And so the organisation we were to establish

had to take account of the absolute necessity for each of us to preserve the complete independence of the organisation he represented. We could not, on the pretext of efficiency, create a joint central direction of the television services of Europe. In Eurovision, we have substituted coordination for direction, leaving each complete freedom to offer, accept or refuse a programme. Our policy is one of constant compromise between efficiency and freedom of action, and the Administrative Office which is in charge of coordination on behalf of us all has done full justice to this role both in the time of Léo Wallenborn who was responsible for creating it

Mr. Louis-Philippe Kammans
*Television Director,*
*Institut National Belge de Radiodiffusion*

and now Charles Gilliéron upon whom the heavy task has fallen. Let us not yield to the temptation that lurks in efficiency lest we destroy what we have created.

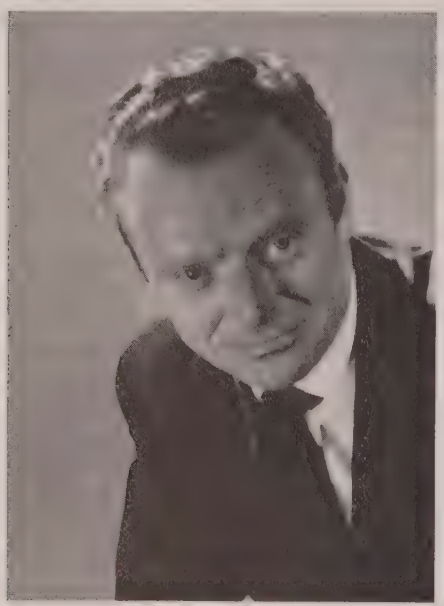
Only mutual confidence makes feasible this policy of individual freedom in creation, and it is probable that the results we have obtained are due to the friendly relationship between those responsible for the programmes. That is an essential point. Eurovision has been possible only because it was the programme directors themselves who got together and not their representatives. If we had not made the effort—and a very creditable one it was for some of us—to come in person to these conferences which are sometimes disappointing; if we had not been keen in each separate country on dealing direct in matters concerning Eurovision, the idea would certainly have been a failure. Over the years, we have learned to know each other, to respect one another and to foresee our reactions in the face of difficulties. It was essential that those ultimately responsible in each country should be to the fore, those who had the power to take decisions as regards a given programme without having to refer back to another authority.

This state of affairs must be maintained at all costs but it sets a problem today. Instead of the eight directors at the beginning, there were more than 40 of us at the conference table when we last met in Stockholm. Far from deploring this increase in number and regretting the good old days, we should be glad of such a muster which is proof of our vitality and usefulness and a pointer to the remarkable future we have before us. At the same time however we should give pause, reflect on what was responsible for our success and examine what is worth keeping and what should be abandoned or modified.

The EBU being one of the few international broadcasting organisations in the world, it is inevitable, because of our experience, the solutions we work out and the legal procedure we formulate, apart from the programmes we produce, that the other television organisations of the world should come and join us as associate members —and that is a good thing. What we must not accept is that the meetings of our working parties develop into Assemblies. That is a matter of agenda and personal discipline, but it is also a question of a better division of the work. The early days of the Belfry of Lille and the directors competent to deal with every kind of question are now behind us. It is no longer possible for us to deal in person with all matters; our role is more and more to choose and decide on the basis of reports from our specialised collaborators. It is our job to bring our heads of services across Europe into contact, and the experience of the specialised meetings held in the course of the last two years is reassuring. The meetings of stage-designers, sports experts, and persons responsible for agricultural broadcasts, for example, all held under the chairmanship of one or other of us, have shown that this was the only way to avoid losing ourselves in long and fruitless discussion in the working groups. It only remains for us then to remember that the Bureau of the Programme Committee with its limited membership is the proper place for discussions of principle.

There are now 13 European television organisations which are active members of Eurovision, that is to say, connected to each other by a network of radio links and capable of offering and receiving common programmes. This network will rapidly be completed. In the next few years, organisations still outside the fold will join us: Norway, Finland, Ireland when it starts its television service, Spain and Portugal which will be connected through France, and finally Yugoslavia, Greece and Turkey. The network will be completed and perfected by improving its links and making it possible for each country to take a programme from any point on the Continent without having to depend on its neighbour. And this will be the prelude to an era when the Eurovision network will be connected up with other continental networks already in existence or yet to be formed. The spectacular provisional link between Europe and Africa

brought into being in July 1958 by the RTF thanks to Stratovision will be set up permanently in the next few years by means of long-range relay stations on the ground. The link with the comparatively undeveloped



(Photo Kayaert)

Mr. Bert Leysen
*Television Director,*
*Belgisch Nationaal Instituut voor Radio-Omroep*

OIR network which has been used spasmodically on the occasion of certain sporting events will be strengthened by the force of circumstances and will set both sides a number of problems, while the link with America which has been under consideration for some years now on both sides of the Atlantic will become a reality in the next two years, provisionally at first like the France/Africa link and then as a permanent fixture. And so as the years pass, the web is woven more closely round the world, allowing pictures to be brought from every corner of the globe. But one day even the technique of the radio link will give way to the technique of broadcasts from satellites and then the television waves will admit of no frontiers. From that moment, Eurovision will completely change its aspect and the EBU will certainly be the only organisation sufficiently homogeneous and sufficiently diversified to withstand the shock of these new techniques that will lead to a system of " television in large groups " where all the frequencies will need to be reallocated and all the national services still be allowed to keep their own individuality.

In this way, tracing our network of relay stations across the surface of the globe, we are fashioning, day by day, year by year, a nervous system for our Continent that is much more powerful than any that have preceded it, whether it be roads, railways, telegraphs, telephone or radio, for it is actually the nervous system of that great body, public opinion, that network of sensory and motor nerves which enables communities to get to know themselves better every day. Able as it is to collect impressions from every point on the surface of the earth we live on and send out again concepts for reflection, stimulation and determination, the Eurovision network, by respecting and encouraging individual freedom and national liberty and personality, is offering at this stage in the evolution of mankind an opportunity for greater awareness, a deeper knowledge of the society in which we live and the earth we inhabit, and an understanding of the destiny of that earth.

*1st May*

## THE FIRST FIVE YEARS OF WORKING PARTY GTV/1

*by SERGIO PUGLIESE*

*Director of Television Programmes of the RAI*
*Rapporteur of Working Party GTV/1 of the EBU*

It was obvious from the first meeting of the Programme Committee in Geneva in 1954 that if we were to have a more efficient and rational approach to our work and a better coordination of our efforts so that something new and important might emerge in the field of international television relations—still at that time in the pioneering stages as far as the majority of European organisations were concerned—it was necessary to split up into two working groups, the first to concern itself with programmes produced by cinematographic means and the second with live programmes.

Indeed, the subject matter, the techniques and the methods of expression of the two working sectors were sharply divided and sometimes their needs were entirely divergent, requiring to be met and dealt with as each found best.

The objects of the first sector were to facilitate the exchange of filmed programmes between the various organisations; to produce joint series of programmes on film which would make it possible to cut down on the high production costs; to standardise the cinematographic material in use among the different organisations in order to improve its circulation.

The second sector, on the other hand, was to bring

forth that very important collection of works now forming the European network for the exchange of live programmes, the central point upon which one of the most important of Eurovision's activities hinges.

GTV/1 immediately set about methodically preparing its scheme of work. Among the first projects to be studied was the institution of a European *Magazine*. It was decided that each organisation participating would send to one given organisation, to be chosen each month, films of the main events in the social, political and artistic life of its own country. In its turn, the

Mr. Sergio Pugliese

receiving organisation was to make a selection of this material, provide the montage, draft the text of the commentary (in French or in English) and send a copy of the *Magazine* thus prepared to all the other organisations. This *Magazine* appeared once a month and a number of editions was produced.

In the meantime, however, the various organisations were rapidly developing their own news services through the medium of their daily newsreels. Also at this time, the first international specialised agencies were appearing on the scene, so that in a short time the *Magazine* created by GTV/1 had been outstripped by events. It was decided therefore to stop production, but the lessons learned from this first experiment enabled us rapidly and easily to work out other similar projects in areas that were more clearly defined and more limited.

And so the International Children's Newsreel saw the light of day and it has continued to be produced at a minimum cost for the benefit of some 15 countries, certain organisations participating every week and others every fortnight. This *Newsreel* dealing only with subjects concerning children and of interest to them has met with great success among the young people for whom it is intended, in every country.

It is perhaps worth recalling that this initiative which is due to GTV/1 has aroused such interest in television circles at large that it has encouraged a number of extra-European countries, such as Australia, Canada, the United States and Japan, to participate in these filmed exchanges. As a result, the International Children's Newsreel can count on presenting events in most parts of the world and thus, as time goes by, its scope is constantly being widened and enriched.

Following the same principles and using the same methods, it was possible in 1958 to start organising an exchange of films to be used for another International Newsreel on the subject of Agriculture, the life and work of farmers and their problems in the various countries of Europe and throughout the world.

Not all television organisations have regular weekly programmes on agriculture as yet, and so this project has not developed to the same extent as the Children's Newsreel, but the good results obtained by the organisations participating in these exchanges show that GTV/1's latest venture will shortly make it possible to include in the programmes of the different national networks a broadcast that is alive, well documented and produced at a moderate cost, because it is the result of a joint effort.

### Production of film series

Over the last few years, GTV/1 has made great efforts to organise the production of series of filmed programmes to which each organisation contributes in the form of a film of its own making which it offers in exchange for the whole series consisting of as many films as there are participants in the project.

Thanks to these arrangements, the following series were produced in the course of the last few years:

*Great Rivers of Europe* — a series intended to illustrate the different civilisations, the various conquests and activities that have had their origins along the banks of the great rivers of Europe, from the Danube to the Rhone, and from the Thames to the Tiber. Nine countries participated in this project.

*Great European Cities* — a series produced along the same lines as the previous one, with 7 countries participating.

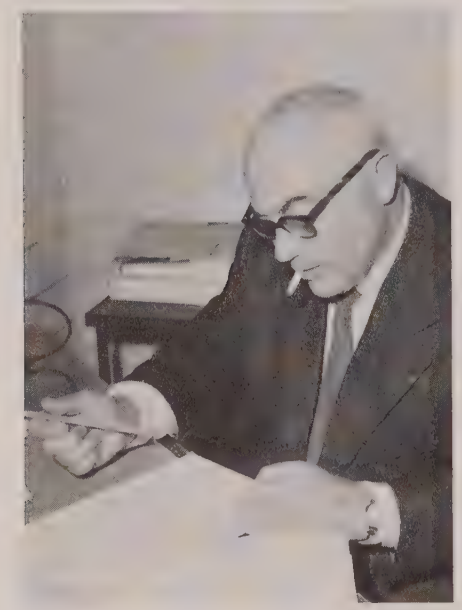
*Small Towns* — after " Great Cities " this was an attempt, by way of contrast, to shed light on the life, customs, and traditions of certain typical small provincial towns where more than elsewhere the particular characteristics of the different populations of Europe survive. Eleven countries took part in this series.

As I write these rapid notes, the various organisations have already finished, or are about to finish, production of a new series to be entitled:

*High Places of the Mind* — which is intended to highlight all the privileged places in Europe or elsewhere (the United States is also participating in this series) that

have marked a stage in the development of the human mind and human thought.

I might also add that another series dealing with scientific subjects is being prepared with the intention of revealing the research, the study and the experimentation which the public at large knows nothing of as yet because they have been carried on in the confined world of the scientist and the specialist, but which are nonetheless destined in the future to clarify and solve many problems for the better understanding of the world around



Mr. Jean Luc
*Programme Director — Radio and Television, Radio-Télé-Luxembourg*

us and to help to facilitate further and even greater discoveries.

The last two series were studied in close collaboration with the International University of the Air which established contact with GTV/1 in all questions concerning the search for and the presentation of cultural programmes intended to be used within the framework of Eurovision.

Looked at from the critical point of view, these film series produced on the initiative of GTV/1 have inevitably met with varying success, because they have not always reached perfection. But it should be realised that the results were always carefully scrutinised by GTV/1 and discussed separately, film after film, programme after programme, so that something might be learned from the mistakes that had been made or the deficiencies observed.

For this reason, it has been possible from one series to another to perfect both the methods of the Working Party itself when taking decisions and the means used for arriving at a better coordination of each separate production within the framework of the general harmonious whole of the series and its aims.

Smaller sub-committees were therefore set up for each type of programme, and they had the task of studying the scenarios, correcting any possible deviations, and even advising radical changes to avoid incoherence and overlapping.

Furthermore, on the occasion of certain sporting events of an international character and in order to assist the work of GTV/2 which provided the direct links, GTV/1, together with the national organisation most nearly concerned, worked out the arrangements for the shooting and the daily despatch of a vast amount of filmed material to all the countries participating.

In this way, highly successful documentation reached all the interested organisations on the occasion of the World Football Championships in Switzerland in 1954, the Olympic Winter Games at Cortina d'Ampezzo in 1956, the Olympic Games (Equestrian Events) in Stockholm in 1956 and the World Football Championships in Sweden in 1958.

There will certainly be no lack of work for GTV/1 in the course of the next few years. The results so far obtained and even the mistakes made over the past five years represent valuable experience, unique of its kind, because our working party is the only one in the world to attempt in a spirit of continuity to solve the difficult problems of televised cinematographic production on an international scale with the cooperation of 14 countries united in perfect equality.

Our efforts hereafter must continue to be directed increasingly not only towards the practical problems of production and film exchanges but also towards a more concentrated study of a certain style and the search for new forms of cinematographic expression specially adapted for television.

Only by so doing will we be able to use to the full this valuable and successful working tool which the European Broadcasting Union has enabled us to fashion.

Fourteen people putting their heads together over one table, and not just fourteen programme directors preoccupied by too many administrative and economic questions—that is what we ought to be. And that is what we intend to be.

# OPERATION "EUROJOURNAL"

*by J. W. RENGELINK*

*Programme Commissioner of the NTS*
*Rapporteur of the EBU Sub-Group for the Exchange of News Film*

One of the most important tasks of all the media of mass communication, and hence of television, is to provide information on current events, thereby satisfying a need among the public to gratify its desire for knowledge, its curiosity and its instinctive thirst for news.

In addition, countries and nations today are bound to one another by so many links and have become so dependent on each other that events in one single country can have repercussions in many others.

Radio, and now television, are capable of keeping the public fully informed, although television has the special problem of not being able to content itself with mere spoken news bulletins. Pictures have to be added, sometimes in the form of photographs of well-known personalities and places, for example, but generally in the form of films. News can be transmitted rapidly from one country to another by means of radio communications or telex, and photographs can be dug up from the files or transmitted at very short notice on the Belin system. But film, which is the main stand-by of news on television, has to be developed, copied and mounted, and in addition it has to depend on normal means of transport (e.g. trains or aeroplanes). It is this question of transport that concerns many people most, for in spite of modern communications transport takes time, especially when the distances involved are long, and considerable delay can be caused owing to unfavourable weather conditions, such as fog. As a result, when the film appears as part of the television news it has lost much of its immediacy.

It seems logical, therefore, that the idea of using the Eurovision network for transmitting news in the form of pictures should spring up naturally in EBU circles. This means that films injected into the Eurovision network in Rome, say, can be shown in London or in Stockholm, for example, at the very same moment, or a few hours later in the form of telerecordings at a time which is more suitable to the receiving organisation. The use of the Eurovision network would mean an enormous saving in time, it would heighten the immediacy of the news and would be in the best interests of viewers.

In September 1957, in the refreshing coolness of the Palazzo Corvaja amidst the heat of Taormina in Sicily, the EBU Programme Committee decided, as the result of a proposal from the Nederlandse Televisie Stichting, to organise a meeting of chief editors of television news services in the member countries, at which it was proposed to study at the same time the possibilities of making regular use of the Eurovision network for the rapid exchange of news.

The meeting of chief editors was held on 10th and 11th March 1958 in Amsterdam and was attended by representatives of 14 organisations. Among the recommendations drafted at the end of the meeting with a view to improving exchanges of news were the following:

(Photo Herder)

Mr. J. W. RENGELINK

*(a)* the setting up of a study group to examine the technical, administrative and financial aspects of regular daily exchanges of news by means of the Eurovision network;

*(b)* the institution of an experimental service for a given period with a view to acquiring experience.

Working Party GTV/1 of the Programme Committee and Working Party L of the Technical Committee appointed as representatives at a meeting in March 1958 Mr. J. d'Arcy, Dr. E. Beckmann, Mr. J. W. Rengelink, Mr. P. Denis, Mr. G. Orsini and Mr. K. Scherber, with the possibility of inviting experts to assist them.

With Mr. Dickinson of the Technical Centre in charge of the secretariat, the study group decided to set up an experimental service in October 1958 for a period of a fortnight and the BBC, NIR/INR, NTS, RAI and RTF agreed to take part in the experiment.

The news agencies also evinced great interest in the experiment, and the British Commonwealth International Newsfilm Agency (Visnews), the United Press and Video France expressed the wish to take part, a wish that was granted subject to certain conditions. The most important of these stipulated that the material should be made available to all the organisations participating, including those which were not members of the agency in question.

The experiment in October 1958 acquired special significance in view of the fact that the death of the Pope occurred during that month. That is why the ARD,

(Photo Fausto Picedi)

Mr. René Lescieux
*Director-General, Télé Monte Carlo*

DSR, SRT and ITN also joined in the experiment for part of the time, the ITN deciding in fact to participate during the whole of the second week.

In addition, as a result of these exchanges of newsfilm it was also possible, through the intermediary of the BBC and the ITN, to supply the associate members of the EBU on the other side of the Atlantic with important news of events in Rome.

At a meeting of the study group and a number of experts in Rome in December 1958, it was concluded that the experiment had been satisfactory. It had not always been possible, however, to estimate how much it had cost and it became obvious that there was a real need to discover what results might be obtained if more countries were taking part. It was therefore decided to arrange for a further service trial in May 1959 which would last for a longer period, and efforts would be made to encourage more countries to take part.

The second experiment was conducted from 4th to 30th May 1959 inclusive. Throughout the whole period the BBC, NIR/INR, ITN, NTS, RAI and RTF took an active part in it. The ARD participated during one week, thereby making it possible for Denmark and Sweden to join in during the same week. Switzerland, which was prevented from taking part for financial reasons, declared its readiness to despatch news of the Geneva conference to all the countries via the network. Two agencies—the BCINA (Visnews) and the UP—were allowed to participate, but the problem of cooperation with the news agencies will have to be studied carefully as and when further developments arise.

This second experiment showed clearly again that on the technical and administrative sides, provided that certain conditions with regard to staff and equipment are fulfilled, a regular exchange of news should not now meet with any serious problems. The EBU Technical Committee, the news coordinators in Brussels, the PTT and television organisations participating have twice collaborated with every success to prove that a daily exchange of newsfilm on the Eurovision network is an actual possibility. The EBU has shown that it is able to put up a remarkable performance in the field of programme exchanges, both from the technical and the administrative angles. There is every justification for giving warm thanks to all those who contributed.

It was an extraordinary experience there in the Dome of the Palais de Justice, where the technical coordination of the programmes took place, to see how quickly the European countries were linked to one another and to follow the friendly conversation and the exchange of news and opinions among persons who realised that they were sharing in a great joint venture. It would have been particularly reassuring for all who have at heart the idea of European cooperation to have been present.

On 9th and 10th June a meeting of the sub-group and a number of other competent persons was held in Brussels. The purpose was to discuss the results of the second experiment. At this meeting the question also arose as to what opinion should be submitted to the Programme Committee and the Technical Committee with regard to the subject of regular exchanges. The outcome of the second experiment had also seemed very satisfactory, at least as far as the technical and administrative aspects were concerned.

And so, after noting the results of both experiments, the study group reached the following conclusion:

> " In the interests of a full and rapid exchange of filmed news for television, it is necessary to institute at the earliest possible opportunity the regular daily use of the Eurovision network."

But in order to do this it will be necessary to solve a number of problems which did not cause too much trouble during the short trial periods but will require to be settled definitely when exchanges are instituted on a permanent basis. The plans and proposals on the

subject were dealt with in Brussels and are to be submitted to the competent EBU authorities. The problems, which can only be indicated briefly here, include:

*(a)* The fact that the national television organisations do not have the same agreements with their respective PTT administrations. In some countries exchanges of newsfilm under existing agreements do not involve large sums of money; but in others the use of the national network and the use of international communications are calculated separately, which gives rise to heavy additional expense for the organisations in question.

*(b)* The absence in some countries of communications independent of those used for national programmes, so that the times when newsfilm can be exchanged are regulated according to whether there is a national programme on the air at that moment. As a result, it was found that news items which ought to be exchanged as late as possible in the afternoon or in the early evening were being exchanged in the early afternoon, which is scarcely desirable from the news point of view.

*(c)* The need to prevent the use of the material broadcast over the network for purposes other than those of the programmes of the participating organisations, without the consent of the organisation from which the material originates.

*(d)* The question of discovering how the network could be used by television organisations wishing to receive important items from a news agency to which they subscribe.

*(e)* The sharing in the costs of the communications by organisations not taking a direct part in exchanges but benefiting from them indirectly (associate members on the other side of the Atlantic).

*(f)* Staff accommodation and the need to increase the number, among others at the Technical Centre, and also for the coordination of news items submitted and requested.

Quite a number of problems, you may say. But it would be a pity if too much time were spent in dealing with these aspects which taken together are no simple matter. Eurovision needs to expand; the network is not used often enough yet and this keeps the cost per hour at too high a figure.

The regular exchange of news, although on a small scale at first, has the power to become a new driving force to encourage the use of this instrument placed in our hands by the technicians—the Eurovision network linking so many countries and nations in Europe. We should be failing in our duty if we left it idle, and it would be against all logic if we were not to use it for the transmission of important items of news.

INCREASE IN THE NUMBER OF TELEVISION LICENCES IN EUROVISION COUNTRIES
(January 1954-January 1959)

| Country | 1954 | 1955 | 1956 | 1957 | 1958 | 1959 |
|---|---|---|---|---|---|---|
| Austria | — | 457 | 1,420 | 3,795 | 16,324 | 49,238 |
| Belgium | 15,000 | 40,000 | 72,000 | 130,000 | 200,000 | 223,427 |
| Denmark | 1,157 | 2,624 | 8,187 | 43,905 | 113,360 | 213,987 |
| France | 63,102 | 125,008 | 260,508 | 450,000 | 683,000 | 988,594 |
| German Federal Republic | 15,485 | 84,278 | 283,805 | 622,024 | 1,211,935 | 2,125,130 |
| Italy | 28,000 | 88,327 | 178,793 | 345,000 | 674,401 | 1,098,899 |
| Luxembourg | — | 480 | 500 | 1,200 | 2,500 | 4,000 |
| Monaco | — | 1,200 | 1,500 | 2,000 | 2,800 | 3,000 |
| Netherlands | 8,500 | 15,000 | 70,000 | 99,466 | 239,019 | 391,036 |
| Sweden | 600 | 1,500 | 7,000 | 12,000 | 86,790 | 244,479 |
| Switzerland | 1,200 | 4,900 | 10,507 | 19,971 | 31,374 | 50,304 |
| United Kingdom | 3,105,644 | 4,155,989 | 5,261,699 | 6,433,417 | 7,760,794 | 8,899,067 |
| Total | 3,239,000 | 4,520,000 | 6,156,000 | 8,163,000 | 11,023,000 | 14,291,000 |

# NEWS AND INFORMATION

## *INTERNATIONAL*

### FÉDÉRATION INTERNATIONALE DES CHASSEURS DE SON (FICS)

**International Amateur Recording Contest, 1959.** — This contest, which originated on the Continent, was at first confined to French-language competitors and that is why of all its names the one most widely used throughout the world is the French *(Concours international du meilleur enregistrement sonore - CIMES)*. For seven years it has been organised in turn by Switzerland, France and Belgium; this year it is the United Kingdom which takes up the torch. The crossing of the narrow sea channel is the symbol of a new extension of the competition and its continuing spread. There are growing signs too of the increasing importance this international event is acquiring. Apart from the continued rise in the number of countries participating in the contest and consequent increase in the number of competitors as well as the variety of the entries submitted, two facts should be ample proof of this growth: *(i)* the BBC has appointed as its representative in the international jury which is to meet in London this autumn Mr. Douglas Cleverdon, one of the finest British radio producers and twice winner of the Prix Italia; *(ii)* one country alone—France—is offering 1½ million francs in prize money. Everything points to a great international contest, which will run from 1st June to 15th September.

As in previous years, amateur sound recorders from every country, irrespective of origin or whether they belong to a national society that is a member of the FICS, will be able to compete in the following categories: *(a) Montage* (radiophonic creation, radio drama, sketch, etc.) with a maximum duration of 15 minutes; *(b) Documentaries and reportages*, 10 minutes; *(c) Music or spoken word* (soloists, choirs, orchestras, songs, monologues, poetry, imitations, etc.), 4 minutes; *(d) Pictures in sound* (scenes taken from life, unusual voices, exceptional reports, etc.), 4 minutes. Competitors may submit entries for several categories. The only one in which there is a set theme is the fifth, which is reserved for school groups using the tape recorder; this year the subject selected is: " How we imagine other countries to be ". For the first time a place will be reserved for stereophonic recordings.

The international address of the 1959 Contest is as follows: International Amateur Recording Contest, 7 Tudor Street, London E.C.4.

Jean Borel
*Secretary General of the FICS*

### UNDA

**International Catholic Television Meeting.** — In February of this year the second International Catholic Television Meeting took place at Monte Carlo [1]. This very important event was followed with great interest by the delegate from the Holy See, Mgr. A-M Deskur, under-secretary of the Pontifical Commission for the Cinema, Radio and Television. Their Serene Highnesses Prince Rainier and the Princess of Monaco showed, by their presence, their active sympathy for the endeavour of the International Catholic Association for Radio and Television (UNDA) which is renewed every year and finds a growing response in television organisations.

The very framework of UNDA's activities called for a meeting of this kind. It seemed, indeed, useful if not indispensable to enable the experts and those responsible for religious broadcasts to compare their respective efforts and to pool the results of their experiments.

The results of the Monte Carlo meetings can be stated even now; they represent, first and foremost, a platform, a cross-roads where each television producer demonstrates the manner in which he believes the evangelical message, Catholic doctrine, liturgical life, Church history, etc., can best be interpreted and presented to viewers.

New technique—new language. If religious truth remains changeless, television requires the producer to create a means of expression the form of which can vary with the sensibility, the culture and the genius proper to each people. Mass, for example, whose liturgy is identical in the world of Latin rite, is presented in different ways by its choice of imagery, rhythm, etc., according to whether it comes from Italy or Holland.

This pooling of efforts by those responsible is followed by discussions. At Monte Carlo the specialists agree, to some extent, to learn from each other, to compare their points of view and to seek out together the ways to the best productions. The documents can be placed at the disposal of the producers who, in their turn, can use them for their broadcasts. A fruitful exchange which ensures economy of methods and time.

In order to lend a more concrete attraction to the " Meeting ", prizes in the form of bronze doves were awarded for films and telerecordings.

In creating the " Monte Carlo Meetings " UNDA has done the work of a pioneer in religious television broadcasting. As in all innovations, imperfections gradually make their appearance and have to be corrected by experience. This does not prevent us from following with sympathy these attempts at sharing efforts and we wish the organisers an ever-increasing success.

Canon Jacques Haas

[1] See *E.B.U. Review*, No. 55 *b*, p. 15.

# NATIONAL

## BELGIUM

**Annual Grand Prix of Radio Plays.** — To promote the production of radio plays, the French Broadcasts Section of the Institut National Belge de Radiodiffusion (INR) has instituted an annual competition to be known as the *Grand Prix du Jeu Radiophonique*.

The 1959 competition is open to French-speaking writers irrespective of nationality and entries will be accepted up to 1st October. Works which should on principle have a duration of not less than 30 and not more than 60 minutes must be original French plays designed specially for broadcasting. The prize of 40,000 Belgian francs will be awarded by a jury of seven members appointed by the permanent committee of the INR and the Administrator-Director General of French Broadcasts, and the winning play will be broadcast by the INR.

A copy of the regulations may be obtained from the INR. Entries should be sent to the Directeur des Emissions Parlées Françaises de l'I.N.R., 18 place Flagey, Brussels, or in the case of writers in the American continent to Radio Canada, Boîte Postale 6,000, Montreal.

## CZECHOSLOVAKIA

**International Radio Competition.** — The Czechoslovak Radio has asked us to announce the organisation of the International Radio Competition *Lidice 1960* for the best radio programme. The contest is open to members of broadcasting organisations and authors of works for radio in any country who desire to submit programmes which have already been broadcast by a radio station. Further details can be obtained from: Ceskoslovenský Rohzlas, Stalinova 12, Prague 12. The authors of the three winning programmes will be awarded a fortnight's tour of Czechoslovakia.

## GERMANY (Federal Republic)

**Decisions of the ARD.** — At its general meeting at the end of May the *Arbeitsgemeinschaft* of the Federal German broadcasting organisations admitted the Saarländischer Rundfunk as an ordinary member of the ARD.

The meeting confirmed the decision of the conference of the *Intendanten* which stated that the Norddeutscher and the Westdeutscher Rundfunk had decided on the construction of a second television network and that corresponding decisions by the other broadcasting organisations were under discussion.

The question of financial equalization *(Finanzausgleich)* payments to the Sender Freies Berlin [1] was satisfactorily settled.

From 1st July the broadcasting organisations will broadcast an all-night programme, mainly of music, on medium waves throughout the Federal Republic for the benefit of night-workers.

[1] See *E.B.U. Review*, No. 53 *b*, p. 26.

## GREECE

**General Outline of Broadcasting.** — According to Greek law the organisation, administration and operation of the country's broadcasting network lies exclusively with the Hellenic National Broadcasting Institute (HNBI).

The owners of radio sets in private households pay a yearly licence fee amounting to 160 Drachmae, and the number of licensed listeners increases by 50,000-70,000 each year. The total number of licensed radio receiving sets has already reached 600,000, *i.e.* one receiving set per 13 inhabitants. It is estimated that in ten years' time the number of licensed receivers will be three times as high.

The main goal of the HNBI throughout its programmes is the education of its listeners. The programmes are planned not only for recreational purposes and for the information of listeners about everyday events, but also to make known the cultural tradition of the nation as well as contemporary spiritual and social problems as they stand in relation to those of other countries, in order to demonstrate the mutual influence of the Greek and international civilisations.

A series of programmes presents: *(a)* the problems and ideas which set the world's spiritual life in motion; *(b)* achievements in science and art; *(c)* personalities from the worlds of art, letters and science who express their views on subjects of vital interest. These broadcasts are presented in various forms ranging from simple talks to discussions.

The Institute presents 3 plays each week of which one is Greek, another chosen from the classical or the contemporary repertoire and the third an adaptation of a well-known work in contemporary Greek or foreign literature. Three symphony concerts are also broadcast every week, one given by the Athens State Orchestra, one by the HNBI's own orchestra and the third by the New York Philharmonic Orchestra specially recorded for the HNBI. In addition to the above broadcasts the HNBI transmits serial programmes from the outstanding works in Greek literature. There is also a daily programme covering art, science, philosophy, history, Greek folklore and customs of the Greek people and of those in foreign countries.

Special attention is paid by the Institute to its broadcasts for children and young people for whom about 14 appropriate programmes of 15 to 20 minutes' duration are given each week. There are also daily broadcasts for farmers which, as well as covering subjects of immediate interest to them, give useful advice on hygiene, clean-

liness, the rearing of the young, odd jobs about the home, etc. A daily programme for women not only covers subjects of primary importance to housewives, working women, young wives and mothers, but also gives talks on the activities of women from all walks of life, on home economy, the upbringing and education of children, home decoration, etc.

A special place in the HNBI's programmes is reserved for religious broadcasts of which there are six each week. The purpose of these broadcasts is: *(a)* to strengthen religious feeling by explaining the Gospel and other holy texts and by relaying processions from churches; and *(b)* to obtain the widest possible diffusion of the Christian way of life.

In sending us this information on their service the HNBI stresses that there is an almost complete balance between broadcasts of socio-political education, those of an instructive nature and those which are purely recreational.

## IRAN

**Progress in Broadcasting.** — The General Department of Publications and Broadcasting of the Imperial Government of Iran has sent us the following brief account of the ground covered by Radio Iran during the past nineteen years.

In 1940, in accordance with the wishes of His Imperial Majesty, the late Reza Shah the Great, Radio Iran was inaugurated by the then Crown Prince, now the Shahinshah of Iran, Mohammad Reza Shah Pahlavi.

During these nineteen years, Radio Iran has played an important part in all the events of the country. Until 1953, for a variety of reasons, it was unable to introduce all the necessary technical improvements. Afterwards, however, under the auspices of His Imperial Majesty Iran began to move rapidly towards a better future. Only then was it possible for the country to make useful plans based on scientific principles. Radio Iran brought in a three-year development scheme as a result of which many improvements were introduced. The General Department of Radio and Broadcasting sent several students to the USA for training in independent management, and a class was formed for the preparation of radio announcers.

The new studios inaugurated recently are the fruits of the hard work which marked these three years. Construction was begun in 1957 by a foreign company on a site given by the Ministry of the Interior. The American Operation Mission in Iran advanced credit to the value of 13,125,000.00 Rls. A sum of 7,650,000.00 Rls. was spent on construction and the remainder on technical equipment. All this was installed by Iranian engineers. The building comprises a large hall, three studios, three control rooms, eight administrative offices, a repair shop and special archives for records. The modern organisation of the Pars News Agency—information office, teleprinters and library—was financed out of the 1953 budgetary reserves.

Under the special patronage of His Imperial Majesty and with the assistance of the Ministry of Posts and

The inauguration of the new studios of Radio Iran in the presence of the Shahinshah of Iran

Telegraphs, five powerful transmitters are to be set up in different parts of the country.

## IRELAND

**Report of the Television Commission, 1959.** — The 20-member commission set up last year [1] has recently published its report, which runs into 70 pages.

After referring to the special problems of television in Ireland—the competition from BBC and, by the end of 1959, ITA transmissions from Northern Ireland, the uneven distribution of the Irish population, the desire for a bilingual service, the standard of living in Ireland in relation to that in Great Britain—the report takes up the question of finance and estimates that an organisation undertaking to provide a national network of five main transmitting stations with connecting links and a programme centre would need to have available capital of the order of £1,500,000. On the basis of 30 programme hours a week, consisting on average of 25% live programmes and the balance of filmed or tape-recorded material, annual running costs are estimated at £650,000 (£300,000 for managerial, technical and other fixed charges, £350,000 for programmes). The two chief sources of revenue would be licence fees and advertising. In May 1958 the number of television sets in Ireland was estimated at 20,000; the Commission accepted the conservative estimate that in the third year of operation of a television service this total would have risen to 120,000, bringing in a net licence revenue of £330,000 on the basis of an annual fee of £3. It would, in the Commission's opinion, take probably 7 or 8 years at least for the number of licences to reach a figure which would provide sufficient income to cover the estimated costs, not counting the likely rise in costs by that time.

The Commission is satisfied that the outlook for commercial television in Ireland is not a pessimistic one, and there are grounds for the view that television advertising should be able to secure revenue of an amount equivalent to about 10% of existing advertising expenditure in Ireland. It would not be over-optimistic to expect that net advertising revenue of the order of £350,000 at least would be obtained in the third year. The Commission points out that, while the foregoing estimates are necessarily tentative, they are sufficiently realistic to provide a basis for consideration, and believes that a television service based on a reasonable licence fee and advertising revenue would probably show a profit about the third year of operation, assuming full national coverage at that stage.

The report then states that none of the groups or individuals who made proposals to provide an Irish television service were interested except on the basis of a monopoly. The Commission doubts the practicability of establishing a television service within its terms of reference otherwise than on that basis.

Of the three ways in which it is possible to establish television in Ireland, one—a public service financed from public funds and licence fees—could not be considered under the Commission's terms of reference which specified that no charge should fall on the Exchequer. The Commission was not satisfied that a proposal received to introduce television as a public service financed by licence fees and advertisements but with no assistance from the Exchequer would be satisfactory. If, therefore, Ireland is to have a television service, and in existing circumstances the Commission does not accept that Ireland can afford to be without its own television service, it follows that such a service must for the present be provided as a private enterprise, financed mainly by revenue from advertisements. While the Commission at this stage advocates the establishment of a television service on the basis of private enterprise, it further recommends that " if and when the circumstances favour a change over to a basis of public service, this should be done unless by that time experience has shown that the present misgivings associated with a system based on private enterprise are unfounded ".

Strong approval is expressed of the decision of the Government, set out in the Commission's terms of reference, to vest the control of Irish television in an Irish public authority. Recommendations are made as to the constitution, power and duties of the Authority which should be defined by statute. The Authority should take the form of a Board composed of nine members, and the operating organisation should be permitted to be represented by having one member on the Authority. Members should be appointed by the Prime Minister on the advice of the Government for a fixed term of 3 years, 3 members retiring each year in order that public opinion and sentiment should be adequately reflected.

Advisory committees should be appointed by the Authority to give advice on religion, national culture and language, the form and content of advertisements, the welfare and education of children, and agriculture; but the power to obtain such assistance would not relieve the Authority of the ultimate responsibility.

The gross amount of licence revenue less expenses of collection should be paid to the Authority; under no circumstances should licence fees be paid direct to the operating organisation.

As the future development of television cannot easily be forecast it is suggested that the television statute should lay down a specific date when it will expire unless extended by Parliament.

On the subject of the relationship between television and radio, the Commission inclines to the view that, " in principle, broadcasting in Ireland, whether it take the form of radio or television, should be under the control of a single broadcasting Authority. The Commission is, however, firmly of the opinion that for some years to come it is not only desirable but necessary that Irish

[1] See *E.B.U. Review* No. 49 *b*, p. 14.

television and radio should be controlled by separate and independent bodies". Radio Eireann should be fitted as far as possible to meet and deal with the new situation; it should be so constituted as to have equal standing with the television service and as much freedom of action in the field of administration as the latter, and also its financial resources should be improved. As the new television service will fully occupy the attention of the Television Authority, the Commission recommends that the control of the radio service be for the present vested in a separate but similar public authority.

It should be the duty of the two Authorities to ensure that such resources as can be shared—for example the news service, and perhaps technical staff—should be shared to the fullest extent possible.

The Commission recommends two types of licence fees, one a combined fee for television and radio not exceeding £4, and the other for radio alone, the present sum of 17s. 6d. being increased to £1.

Next discussing programmes, the Commission considers that at the start there should be a minimum of 21 programme hours per week with a gradual stepping up to 50. As for the time allotted to advertising, a general maximum of six minutes per programme hour for "spot" advertisements should be prescribed, but ten minutes in any one hour could be permitted subject to an overriding daily maximum calculated on the basis of six minutes per programme hour. As a general rule advertisements should be in the form of "spots" in the programmes, but the Authority could permit specific programmes to be broadcast on a sponsored basis if they met certain requirements. The rules restricting advertising generally in any other medium in Ireland should also apply to television. No advertising material should be associated with any news broadcast.

A high proportion of the programme material should be of Irish origin and should adequately reflect the national culture and outlook. Television would seem to be one of the most effective mediums for the implementation of the national policy in regard to the Irish language, and the Commission suggests ways in which the use of Irish can be furthered through the programmes.

The Commission puts forward the general requirements which the Government should lay down as a basis of negotiation with the operating organisation on such points as the length of the contract period, the time limit for national coverage, etc., and recommends that the operating organisation should take the form of an Irish registered company any change in the control of which would have to be approved by the Authority.

Various members of the Commission expressed reservations on specific points of the Commission's findings, and these are set out the end of the report. Four members submitted a minority report contending that the revenue required had been seriously underestimated.

The recommendations of the Commission relating to line standards are described in *E.B.U. Review* No. 56 *a*.

The Government will be considering the Report in due course.

## LEBANON

**Introduction of Television.** — The Lebanese television service was officially inaugurated by the Prime Minister on 1st June, according to a report in *The Times*. The station, which is located in Beirut, has two studios at present and two channels—one of which is for programmes in English and French—and is the product of Lebanese private enterprise and Anglo-French technical assistance.

The radius of the station is estimated at about 50 miles and it is expected to provide good reception along the length of the Lebanese coastline, covering most of Lebanon's 1½ million inhabitants.

We shall be publishing a full account of this new service in one of our coming numbers.

## SWITZERLAND

**Administrative Director of the SSR.** — The Central Committee of the SSR has appointed Mr. Domenic Carl to the position of administrative director as successor to the late Mr. Georges Conus. Mr. Carl was until now SSR programme director and has belonged to the general directorate since 1949.

## UNION OF SOUTH AFRICA

**SABC Annual Report 1958.** — This report was tabled in Parliament on 11th May, 1959.

The revenue for the year totalled £2,177,218, which was £200,000 more than in 1957. The revenue is mainly from two sources: listeners' licences—£1,318,799; and gross revenue from the Corporation's Commercial Service—£779,284. The greatest single item of expenditure is £907,317 for artists' fees and programme expenses. Engineering expenses account for £342,348; and administration and general expenses for £388,016.

The steady increase in radio licences continues, as figures for the last five years show: 1954—707,622; 1955—730,176; 1956—779,428; 1957—854,338; 1958—907,417.

The net revenue per licence is a fraction over 29 shillings. The Corporation granted the following concessionary licences: 742 free licences to hospitals, charitable and educational institutions; 1,919 half-crown (2s. 6d.) licences to blind persons and indigent invalids; and 1,673 ten-shilling licences to inmates of homes for the aged and infirm.

*Development.* In February the Corporation took transfer of Broadcast House, Johannesburg. Steps were taken to modernise and adapt the building, and particularly to provide more studio space, as this building has to cater for four parallel programme Services, the

English and Afrikaans Services, the Commercial Service (Springbok Radio) and the Bantu Service. On the technical side the Corporation decided to abandon conventional designs and to plan and construct fully transistorised studio equipment.

*International contacts.* The Corporation's Director-General, Mr. Gideon Roos, visited the EBU headquarters in Geneva, and attended the conference of the Union's Legal Committee in Germany during September. Two SABC engineers attended the Interim Study Group meetings of the CCIR in Geneva during July and August.

*Programmes.* Since the SABC Symphony Orchestra was founded in 1954 there has been a steady development of music. The Orchestra's activities in 1958 embraced many public and studio concerts, as well as increased efforts to stimulate interest in good music among young people. The Orchestra gave 82 public concerts; of these 19 were symphony concerts, 34 lunch-hour concerts, 8 youth concerts, 4 massed school concerts, and 17 were held at schools in and around Johannesburg. Five symphony concerts were held in Pretoria, and 19 were broadcast from the Johannesburg Studios.

Solo artists featured in many orchestral concerts and recitals. Chamber music was presented by several famous groups from abroad and by the SABC Studio Orchestra.

A landmark in the broadcasting of opera was the presentation of *Asterion*, the radiophonic work by Henk Badings of Holland. This was specially commissioned by the SABC. The music was supplemented by electronically produced sounds and effects. The libretto was by the well-known South African poet, N.P. van Wyk Louw.

*Sport.* Many famous foreign teams and individual sportsmen performed in the Union. Sporting events abroad were covered, and listeners heard commentaries on important international boxing matches in Canada and Britain. The tour of Australia by the British cricketers aroused much interest and, with the collaboration of the Australian Broadcasting Commission, ball-by-ball commentaries on the Test Matches were broadcast.

## UNITED KINGDOM

**New BBC Division.** — A new Division, the Legal Adviser's Division, has been created. It will comprise The Solicitor's, Programme Contracts and Copyright Departments.

Mr. E. C. Robbins, C.B.E., has been appointed Legal Adviser as from June 22nd 1959 and will be succeeded as The Solicitor by Mr. L. P. R. Roche.


## Part A (Technical) of E.B.U. Review No. 56

*contains the following articles:*

The functioning and utilisation of special-effects equipment in television, by G. Stump;

" Precision offset " in varying field-frequency, by Dr. Ing. R. Busi;
Broadcasting in Ghana.

There are also topical notes concerning the technical activities of broadcasting organisations in various countries, notably: the television networks in Belgium, television outside-broadcast vehicles used in the Netherlands and Sweden, the film-synchronisation centre of the NTS, the BBC television outside-broadcast base in Scotland, the first newsfilm exchanges by transatlantic cable between Canada and the United Kingdom, the celebration of the fifth anniversary of Eurovision, television frequency allocation problems in the United States, the Report of the Irish Television Commission;

together with a report on conditions in the European long- and medium-wave broadcasting bands as at 1st July 1959, and accounts of recent meetings of technical working parties, including the first meeting of Working Party S (stereophonic broadcasting) and a meeting of the Rengelink sub-group dealing with the daily newsfilm exchange scheme.

# LEGAL SECTION

## THE LEGAL PROBLEMS OF FILMS AND TELEVISION

*by Professor Dr. K. BUSSMANN, Hamburg*

I

The constant increase in the number of television viewers[1] makes it more apparent every day that motion pictures and television are genuinely competing with one another. I do not propose to expatiate on the economic aspects of this competition and will instead confine myself to a study of the legal problems that emerge from the coexistence of the two media. Both motion pictures and television are influenced to a considerable degree by the existing copyrights of third parties, and the question immediately arises as to what extent copyrights or ancillary rights may subsist or be created in cinematography and broadcasting themselves and may affect this reciprocal relationship. Above and beyond all this, there may from time to time be clashes based exclusively on the law of unfair competition.

II

I do not think my purpose would be best achieved by stating the problems in purely theoretical terms; I will therefore describe some conflicts that have actually occurred, to show where the problems lie and the sort of disputes that may be engendered. It goes without saying that the future may reveal a host of other sources of conflict; however this may be, a whole series of problems can be examined in the light of the following examples.

(1) In the days when television was still in its infancy and micro-wave links were still prone to technical hitches, the programme transmitted from Hamburg was not coming through to Cologne one evening because the link between the Hamburg studio and Cologne was out of order. In the transmitting room at Cologne a few films were lying around, among them one called *Der träumende Mund*, the première of which was to take place in a few days' time. It had only been sent in with a view to the transmission of short excerpts for publicity purposes. The man on duty in Cologne, trying to fill the resultant gap in the programme by running a film, unfortunately picked this particular reel. This led to an action for damages in respect of an alleged falling off in box office receipts, for which the broadcasting station was ultimately held liable.

(2) When the World Football Championships were being played off in Stockholm a number of cinemas in the Federal Republic of Germany announced that they would show the television broadcasts of the championship matches from Sweden at specified times by means of their television projection equipment. As some of these cinemas considered themselves to be explicitly authorised to exhibit pictorial coverage of sporting events and other news, an action was brought to determine whether such relays were lawful [1].

(3) The television Service broadcast in 1958 a television lottery in aid of the Berlin Children's Relief Appeal. These broadcasts, made up partly of announcements of the lottery, partly of the draw itself and partly of announcements of the winners, all bore the title *Kleine Leute - Grosse Reise*. The delegate of the Children's Relief Appeal who produced this programme for television as a free-lance employee had proposed that a "hit" song should be composed with the same title. This song was written by a lyric writer and a composer and was brought out by a music publishing firm. It was not possible to clarify the agreements entered into by the representative of the television organisation and the authors of the song, at least as regards the copyright in the title. The music publishing firm turned this song over to a motion picture company for a film and gave the film company permission to use the words *Kleine Leute - Grosse Reise* as the title of the film. The distributing agency endeavoured to make publicity for the film by reference to the universally known television broadcast [2].

(4) The heir of Arthur Schnitzler assigned to an American motion picture company "the exclusive silent, sound and talking motion picture rights" in the dramatic work *Liebelei*, which is still in copyright. The

[1] Herbert T. Silverberg, in an article entitled "Authors' and Performers' Rights" in *Radio and Television*, Part II, 1957, p. 125, reports that the number rose in the United States from 17,000,000 in 1952 to 44,000,000 in 1957. In the Federal Republic of Germany there were 1,500 viewers in 1953, 125,000 in 1955, some 1½ million in 1958 and there are nearly 2½ million at the present time.

[1] In the meantime the Hamburg *Landgericht* (15.0.187/58) has enjoined performances of this nature. The judgment is not yet final. See *E.B.U. Review* No. 55b, p. 29.

[2] Both the Hamburg *Landgericht* and the Hanseatic *Oberlandesgericht*, in proceedings for an interim injunction, have declared it illegal to use the title or make reference to the television programme. Cf. UFITA, Vol. 27, p. 77. See *E.B.U. Review* No. 53b, p. 41.

contract contains a clause authorising them " to televise any motion pictures based on the play by means now known or hereafter to become known ". The television rights in this play were subsequently assigned to the broadcasting organisation. The television organisation broadcast the play live, but at the same time made a kinescope of the play in order to make a repeat broadcast. The American motion picture company is asserting its rights in relation thereto.

(5) These cases illustrate some of the problems that may arise out of the co-existence of motion pictures and television. They are partly problems of copyright and partly problems of unfair competition. The first question that arises is whether and under what circumstances motion pictures or television are justified on considerations of copyright in borrowing and using each other's works; the second question is that of the relationship of motion pictures to television on the plane of unfair competition, and whether claims can be preferred on the basis of the law on unfair competition for borrowing, infringement of title or " tie-in " publicity.

III

If we consider the copyright aspect, we must now distinguish between *(i)* the rights of authors vis-à-vis cinematography and television, *(ii)* the rights accruing to authors in the films or television programmes themselves, and *(iii)* the rights in such films or programmes that may vest or be created in the motion picture companies or the broadcasting authorities.

Of chief significance are the copyrights of authors whose works are televised as they stand or are adapted for cinematography and television, *e.g.* the rights of scenario writers, the rights of composers of film and television music (whether written specially for a film or composed for other uses and incorporated in a film or transmitted as part of a television programme), and the rights in the photographs which belong to the cameramen, together with the rights inhering in the film maker under Section 15 of the Copyright (Protection of Artistic Works) Act.

Other rights which must be taken into consideration are those of the performers who by their performances record a work on phonograms. I refer to the fictitious adapter's copyright under Section 2 (2) of the present Copyright (Literary Works) Act as well as to the rights which the *Referentenentwurf* proposes to confer on performers generally, *i.e.* on the musicians and actors who interpret the work for films or television. Finally, regard must be had to the rights which vest in the broadcasting organisation or the film company in respect of the finished television programme or the finished film. In the case of television a further distinction must be made between live broadcasts that are not recorded on any film or phonogram and broadcasts which are simultaneously recorded with a view to repeat performances or which are produced as a television film from the outset because a live broadcast is out of the question.

It so happens that these rights are not mutually exclusive; they subsist side by side and overlap one another, and in certain circumstances some are dependent upon others. It will consequently be necessary to examine them separately in order to demonstrate the extent to which the individual rights may conflict.

IV

It goes without saying that works in copyright may only be used for cinematography or television if the relevant rights of exploitation have been assigned by the proprietor of the copyright or the authorised collecting society. This applies equally to the music incorporated in the film or television programme and to the scenario or the literary works on which the television show or film is based.

I do not wish to go into the question of the respective importance attaching to the acoustical and visual components in cinematography and television. In this connection Berthol and Hartlieb [1] speak of a " *Tonbild* " —a sound-image — in which the predominant element is the visual one, as in the case of sound films. In the nature of things this emphasis may shift in special cases, where the musical component will take precedence, *e.g.* in television broadcasts of recitals, concerts or popular tunes.

The principal difficulties arise out of the fragmentation of the individual authorisations and out of the fact that there is frequent uncertainty as to who controls the various commercial rights of any given author.

The rights in question are the right of reproduction, the right of publication, the performing right and the broadcasting right, and it should be noted that the film rights and the television rights should be considered separately. The foregoing is true both of literary and of musical works. As a general rule, all these rights are not held by the author but by collecting societies or other authorised agents, who derive their rights from publishing agreements or other types of contract. It is extremely rare for all the rights to be exercised by the same person or entity.

Except in the case of theatrical works, the reproduction rights in literary works will be controlled by the publisher, but this is not necessarily true of the film rights or the right to use the work on television. The latter rights may rest with the publisher, but they may also still be in the possession of the author or his heirs. In the case of dramatic works the reproduction rights and the performing (*i.e.* theatrical) rights are generally held by the publisher, although here again the cinema rights and television rights may still be held by the author.

While literary works—whether of a narrative or a dramatic character—can only be used for motion pictures in an adaptation, however, dramatic works may be

[1] *Filmrecht*, p. 347, and the authors cited in notes 2 and 3 of that page, on the details of copyright in sound films and television, especially its factual basis and the relation between the two media. Cf. Schmidt de Simoni: *Studien zum Fernsehurheberrecht*, pp. 50-56.

televised either in their original form or in the form of an adaptation. In other words, the utilisation of a work in cinematography necessitates the making of an adaptation in every case, whereas in some cases only stage directions adapted to television are required to perform the work on television.

In addition, the making of a film always implies recording on an optical or acoustical support, *i.e.* a process which as far as the acoustical element is concerned constitutes a fictitious adaptation within the meaning of Section 2 (2) of the Copyright (Literary Works) Act. On television this holds good only when the broadcast is not given live. The transfer of motion picture rights does not automatically include the television rights, even those to televise the film made on the strength of the production contract in question.

In the case of musical works we have at one and the same time the music publisher for the sheet music, GEMA for the performing rights *(petits droits)*, BIEM for the mechanical rights and the theatrical publisher for the theatrical rights *(grands droits)* in operas and musical comedies. These rights are not by any means granted jointly for motion pictures and television, and are frequently granted piecemeal in this case also. In many instances, indeed, the individual was not quite clear which rights he was granting, a situation which came about owing to the fact that the rights in many works were transferred at a time when people did not have television in mind and therefore chose a form of words which lent itself to varying interpretations. In certain circumstances, therefore, the mandatary who concludes the agreements with the film company is not in a position to grant the television rights because they are no longer in his possession. This difficulty arises not only in Germany but in other countries as well; in the United States, for example, the problem was dealt with in the Ettore case. The issue in this case was whether the broadcasting of a film with the omission of certain passages several years later was an encroachment on the boxer's rights. The Court took the view that a general assignment of rights at a time when television rights were immaterial would not include such rights unless they were specifically mentioned, and was therefore bound to " treat the absence of the new or unknown media as about the equivalent of a reservation against the use of the work " [1]. In an article entitled *Television and Commercial Films* Guéritat discusses the whole problem [2] and indicates that the authors on the advice of their societies reserve their television rights on principle and draw up their contracts accordingly.

When a film company produces a film on the strength of the rights it has been granted and releases the film for exhibition through a distributing agency, this transaction operates quite smoothly as a rule because all the necessary authorisations have been procured. This however does not mean that a film produced pursuant to these authorisations may be given to a television organisation for broadcasting purposes without further formality. As regards the music, however, the difficulty is removed by the fact that only *petits droits* are involved, and both broadcasting and television organisations have secured the television broadcasting rights in the film music under their lump-sum contracts with GEMA.

The legislation now in force is of little help in the face of this multiplicity of possible uses and this variety of agreements and contracts, because the purely copyright statutes lay down no presumptions for exploitation and the Publishing Act makes no provision for this type of utilisation at all.

At the present time the controversy centres around the fictitious adapter's copyright deriving from Section 2 (2) of the Copyright (Literary Works) Act. It can probably be assumed that these rights arise directly in the performer and are dependent on the author's rights in the copyright work only in so far as the utilisation of the phonograms, films, etc., on which the work is recorded requires permission from all the right-holders, *i.e.* both the author and the fictitious adapter. Apart from this the actual scope of the fictitious adapter's copyright is in dispute. It is likely that the matter will not be finally elucidated until the Copyright Bill has been enacted into law or until the Federal (Supreme) Court has unequivocally decided all the relevant issues. In the latter event, however, it should be remembered that judgments decide only the specific case in action, and are law only as between the parties thereto.

*De lege lata* one can only express the hope that all concerned will endeavour to word their agreements as clearly and comprehensively as possible. For instance, in the *Liebelei* case mentioned above it is doubtful what the clause on the motion picture rights in the dramatic work in the introductory provisions of the contract is intended to cover with respect to the broadcasting rights. Does the further provision " to televise any motion pictures " merely mean that the film company is to have broadcasting rights in this particular film, which would be reasonable enough, or does it actually mean that the company shall have the right to televise any visual fixation of the work whatsoever, even a recording made by the broadcasting organisation for the purposes of a television broadcast? It seems hardly possible to construe this provision as a power of veto over a live broadcast.

*De lege ferenda* it is particularly desirable that further fragmentation of the rights should not be encouraged in any way. In the provisions on cinematograph films the *Entwurf* already contemplates the granting of a number of rights *en bloc*; the Act should go farther and should lay down that in the event of no mention being made of

[1] United States Court of Appeals, No. 11,503, 11/I/1956, Albert Ettore *v.* Philco Television. The summing up of the legal position in this case is of interest: the Court terms the legal basis " as reliable as a haycock in a hurricane " and Silverberg, *loc. cit.*, says " the result is clear enough, the ground on which it protected performers' rights is not."

[2] *EBU Review*, No. 52 *b*, p. 26.

specific uses there should at least be a presumption of a general, over-all cession. There can be no doubt that such a provision would obviate many unnecessary disputes and thereby render valuable services to the authors themselves. It goes without saying that there is no intention to cause any prejudice to the financial interests of the authors; the idea is only to avoid the necessity of going to court to determine which rights were actually granted in a particular case or to which collecting society the fees are to be paid. It is even worse when these obscurities result in an injunction against the exhibition of a film, or when finished audio-visual fixations either of the film or of the broadcast have to be destroyed.

## V

The foregoing considerations relate only to the rights of authors, their successors in title or their mandataries vis-à-vis cinematography or television. Another question that arises is whether these two parties, *i.e.* the film maker or the broadcasting station, can by direct action restrain each other from turning the productions of the other party to account. In other words, can the film maker forbid the television organisation to broadcast a film, and can the television organisation prohibit the projection of television broadcasts on the screen in cinemas on the basis of purely copyright considerations? Such prohibitions can of course be imposed, on condition that the film maker or broadcasting organisation bases its claims on a derived right. Furthermore, the enforcement in one's own name of other people's rights presupposes the existence of a legally valid assignment or authorisation covering the use in question. At the same time consideration should be given to the possibility of enforcement on the strength of rights over the film vesting initially in the film maker or rights in the television broadcast inhering in the broadcasting organisation.

(1) To the extent that motion picture and television interests base their proceedings to enjoin the appropriation of their work by the other party on derived rights, the content of the various rights must be defined with precision, and here again the distinction between the two institutions is of some significance. Television will tend more often to transmit dramatic works in their original form, while both radio and the cinema will present literary works in forms adapted to the particular medium. The contents of the licences or assignments will therefore vary accordingly; in the first case the right transferred is the right to perform the stage play, while in the others an adaptation contract is involved. According to the judgment of the Federal Court of 15th April 1958 in the *Privatsekretärin* case [1], the law on publishing may in individual cases be applied to other copyright contracts as well. This, however, presupposes that the relationship between the interests of the parties corresponds in essence to the relationship which the relevant provisions of the Publishing Act are intended to regulate. In the opinion of the Federal Court this may apply particularly to the warranty of title in a film agreement containing a compulsory exploitation clause. Moreover, there is a fundamental difference between a film agreement and a publishing agreement, in that the former is concerned not with the reproduction of a completed work in unchanged form, but rather with a special kind of adaptation of that work, and the grant of permission to make it into a film. Thus a change of form is implicit in every film agreement, and this likewise holds good when the television organisation turns a work into a screen play or a film.

The position is different again when it is not a question of an agreement for a screen adaptation but rather of an assignment of a finished film scenario.

Both the motion picture rights and the television rights in a literary work presuppose that an adaptation will be made by other hands, and thus if both sets of rights are disposed of, two or more entirely separate works may come into existence side by side, according as the subject matter is converted into a film or a television play. Past experience has shown that very different films may be produced when the motion picture rights are granted to different producers. If however the work is in dramatic rather than narrative form, it is possible to use it unchanged in a television performance, though an adaptation of the stage play may be made for television in the same way as for motion pictures. Depending on the course that is adopted, enforcement of the rights by motion picture or broadcasting interests will necessitate the assignment of one or more copyrights, *i.e.* in the first case that of the author or his collecting society, and in the second that of the actual adapter as well.

(2) In the case of musical works neither the film industry nor television will be authorised to exercise the performing rights, because these performing rights are generally controlled by GEMA, which means that GEMA collects royalties in respect of performances of sound films in cinemas and of television shows on receiving sets in hotels, cafés, etc. It follows that the film industry cannot restrain the television organisation, and *vice versa*, from appropriating productions on the grounds of an infringement of the rights in the compositions in question. It is as yet impossible to foresee whether literary rights will one day be controlled by an authors' society in the same way as musical rights, which would mean the collection of additional royalties from cinemas and in respect of the public reception of television programmes. Should the authors of literary works assign their rights of recitation, where such rights are provided for by law, in the same way as the composers, it would no longer be possible for film or broadcasting interests to proceed by way of injunction, since the over-all assignment to the collecting society would preclude any exclusive licence. These conclusions are based solely on copyright considerations; special contractual arrangements, where such are possible, may yield different results.

[1] *GRUR*, 1958, p. 504 - *UFITA*, 1958.

(3) The prohibition against performances of television shows in cinemas or against the transmission of a film by the television organisation may also be based on the assigned rights in the photographs.

Section 3 of the Copyright (Protection of Artistic Works) Act expressly states that the words " photographic works " include works produced by a process analogous to photography. The cameraman who shoots a film unquestionably acquires a copyright of his own, and it is submitted that the same right must be conceded to the man behind the television camera. The very wording of Section 3 lends itself to this meaning, since " photographic works " include works produced by a process analogous to photography. In the case of a live television broadcast, however, there is no fixation of the picture by optical and chemical means, but only an incorporeal transmission by optical and electrical means. But, apart from the technical details, the cameraman's work and the demands made on his artistic eye are the same in both cases. Accordingly the individual television images enjoy statutory protection within the meaning of Section 3 of the Act as works produced by a process analogous to photography, even though they are not fixed in a material form [1].

Whether *de lege ferenda* this right will remain a true copyright or whether it will be assimilated to the ancillary rights is another question. In the latter event there would also be the possibility, as already provided for in the *Entwurf*, that the right would vest in the employer or person giving the commission as first owner [2]. These are, however, secondary questions, and do not affect the possibility of initiating proceedings for unauthorised use on the basis of the rights in the photographs.

(4) In the event of the conversion of running commentaries, the reporter's right of recitation may also be invoked. It is the generally accepted opinion that copyright may subsist in running commentaries [3]. The commentaries accompanying a television broadcast in particular often amount to an original and creative work, since they are not confined to a recital of certain facts. The relevant provision is Section 1 of the Copyright (Literary Works) Act, under which copyright may subsist in lectures or addresses given for purposes of instruction or entertainment, though admittedly there will seldom be any question of edification. There is thus a significant difference between running commentaries and ordinary " newscasting ", which merely reports the facts. It is true that the right of recitation is limited *de lege lata*, but it invariably subsists for such time as the work remains unpublished, which is always the case with running commentaries. The unauthorised performance of a running commentary broadcast on television is an invasion of copyright. The provisions of the Newsreel Act cannot be invoked to justify such appropriation either, because that enactment merely makes an exception in respect of the works in copyright which become audible or visible in the course of the event depicted in the newsreel.

(5) With respect to borrowings of films with a plot, Section 15 (*a*) of the Copyright (Protection of Artistic Works) Act affords grounds on which protection can be claimed. This right can only be enforced, however, in relation to cinematographic works or works produced by a process analogous to cinematography which on account of the combination of events portrayed can be regarded as individual works of artistic creation. In this case the copyright also extends to the pictorial reproduction of the story in a changed form. The author is granted the exclusive right to perform the work in public. Having regard to the very narrow wording of this text, these provisions can only be applied in cases where the television broadcast or cinematograph film really has a definite plot, and hence hardly ever to pure reports of sporting events or similar functions. The copyright brought into existence by Section 15 (*a*) does not vest directly in the film maker or broadcasting corporation; it goes instead to the person who fashioned the plot for the cinematograph film or television broadcast into a distinctive and creative work. This person may be the author of the scenario, but he may also be the director, when the work has been produced without a scenario. Hence in this instance as well the film interests and broadcasting organisations would be in a position to enforce their claims only if the rightful owner of the copyright had assigned the claims in question to them.

(6) There is no provision in existing German legislation for a copyright or ancillary right in television broadcasts, and indeed the law as yet contains nothing on broadcasting and television at all. Nevertheless a special right might arise in certain circumstances in an artistically composed broadcast, just as an independent copyright can arise in a collective work or an adaptation.

## VI

In addition, the film industry and the broadcasting organisations may on occasion invoke rights assigned to them by the performers. This is not the place to embark on a discussion of the importance attaching to performers' rights. I have already indicated above that the scope of these rights is currently in dispute, and that a Supreme Court ruling is not yet to hand. It is likewise common knowledge that the draft Copyright Bill provides an entirely new set of rules on this point, according to which the rights accruing to performers would no longer be regarded as copyrights and would be classed as ancillary rights instead. It is yet to be determined what the scope of these rights will be, and the matter is also the subject of current negotiations at the international level. The pros and cons of these rights are being energetically canvassed both in Germany and elsewhere, with the

[1] Cf. Hubmann, in *GRUR*, 1953, p. 320, note 35; Schmidt de Simoni, *Studien zum Fernsehurheberrecht*, 1956, p. 101.

[2] It is already accepted that the proprietor is entitled to the copyright in cases where photographic works are produced commercially by employees under the supervision of the proprietor. Cf. Ulmer, *Urheber- und Verlagsrecht*, p. 313.

[3] Cf. Kohler, *Urheberrecht*, p. 193; de Boor, *Urheber- und Verlagsrecht*, p. 112; Ulmer, *loc. cit.*, p. 171.

authors and their societies in the forefront of the opposition. All I should like to say on this point at the present juncture is that the new rights are the centre of a national and international tug-of-war. It is not yet apparent to what extent these rights may be asserted independently, or to what extent they may be assignable and hence enforceable through the agency of a collecting society. I will therefore confine myself to a brief exposition of the problems.

The existing provisions of Section 2 (2) of the Copyright (Literary and Musical Works) Act state that if a literary or musical work is recorded by means of a personal performance on contrivances for use with instruments whereby sounds may be mechanically reproduced, the contrivance so produced shall be considered the equivalent of an adaptation of the work. This section accordingly does not cover reproduction *via* a visual fixation; it is confined to reproduction *via* a phonogram, since the text refers only to the reproduction of sounds. In other words, Section 2 (2) must be left out of account in those cases where television exhibits a silent film, or where a silent television programme is borrowed by motion picture interests. On the other hand copyright does subsist in the music, the spoken performance or the spoken word, and it inures to those who interpreted the music or spoke the words. Here too the artists performing the music have become affiliated to a collecting society and have assigned their performing rights to that body. It follows that where such an assignment has been effected and found to be legally valid, the motion picture and broadcasting interests are no longer in a position to litigate on the basis of derived rights. The position is different with respect to the spoken word and also in the case of the commentator, who not only possesses a copyright in the commentary he gives but also has a fictitious adapter's copyright under Section 2 (2) in the performance as such, by means of which he fixes his commentary on the contrivance for reproduction. In television broadcasting, however, it is usual for the commentary to be a live transmission, in which case no recording on a *corpus mechanicum* is involved. Since a television broadcast of this nature may then be projected on to the cinema screen without the intervention of any recording, Section 2 (2) can no longer be invoked. It would hardly be possible to make this section apply to a live broadcast in the same way as we found Section 3 of the Copyright (Artistic Works) Act to apply to the live pictures.

## VII

The *Entwurf* further provides for the film maker and the broadcaster to be invested with a right of their own, though not in the shape of the usual copyright; for the film maker it will be a copyright of a special kind, while for the broadcaster it will take the form of an ancillary right. The juridical nature of the right to be granted in the film is still in dispute. I do not wish to dwell in this article on the extensive controversy that this problem has evoked, particularly the question whether a genuine copyright or merely an ancillary right should be granted in the film and whether it is possible to regard the film maker as the presumptive author. It can, however, be safely said that whichever course is adopted in the new Bill the two institutions are bound to be granted rights of their own which will among other things make it possible for them as of right to restrain unlawful appropriation, whether this be the performance of television broadcasts in cinemas or the unauthorised televising of films. Moreover, some arrangement of this kind imposes itself, because irrespective of copyright considerations we are dealing here with the products of creative effort, the unauthorised abstraction of which is contrary to every sentiment of justice.

The complications I have described will perhaps be appreciated more clearly in relation to the use of audio-visual fixations originating from abroad, particularly if it is borne in mind that there is a great diversity in the treatment of these rights in foreign countries. These differences spring from fundamental matters, *e.g.* the extent to which the rights of the authors of the pre-existing works used in the film or broadcast continue to operate, and the entitlement (or non-entitlement) of the film maker or broadcasting company to rights of their own in the work. This chaotic diversity is also the reason why the Council of Europe took the initiative in preparing a Convention designed to facilitate the exchange of television films and to establish a presumption which will remove the more glaring disparities in this field [1]. This " European Agreement concerning Programme Exchanges by means of Television Films " was concluded on 15th December 1958 and has since been signed by a number of States [2].

## VIII

Hitherto we have discussed the possibility of conflict from the copyright standpoint, but it is also possible to examine the problem in terms of the law on unfair competition. We are here concerned with Section 1 of the Unfair Competition Act prohibiting unfair competition that is contrary to public policy, and specifically with the rule deriving from this general clause which forbids the unjust appropriation of the work of others.

(1) In the beginning there was much dispute whether motion pictures and television were in a relationship of competition within the meaning of the Act. The fact that the broadcasting institutes are chartered public corporations, that the tasks assigned to them fall within the sphere of public administration and that they possess a monopoly, was construed in some quarters as meaning that they could not be held to be competitors within the meaning of the Unfair Competition Act, particularly as they were not in business for profit-making ends. In the few judgments relating to this point that have been delivered to date the view is expressed that the broad-

[1] A very thorough *exposé* of these differences is given in the Memorandum which the EBU submitted to the Council of Europe in January 1958.

[2] Straschnov has made a penetrating analysis of this Agreement in *Droit d'Auteur*, 1959, p. 40.

casting companies are business enterprises and are established and operated as such, and that they may stand in a true competitive relationship to other undertakings. Thus both the Hamburg *Landgericht* and the Hanseatic *Oberlandesgericht*, on appeal, have held, with specific reference to the relationship between cinematography and television, that there exists an undeniable state of competition between the two institutions [1].

This state of competition is determined by the economico-legal relations existing between the two media, films and television. Without going into the intensity of these mutual relations, it would be hard to deny that there are points of convergence between the spheres of interest of the two institutions. The mere existence of such a relationship constitutes competition and justifies the use of competitive tactics, irrespective of the status of the broadcasting institutes as a public utility corporation at public law. This is particularly true when the broadcasting company, in order to achieve its objects, avails itself of the methods of private business and private law, as is particularly the case with programmes consisting of entertainment. It follows from the above that the broadcaster is in his right to resist unlawful competition by others by recourse to the remedies of private law, just as he himself is subject to the rules of fair competition in his own acts and devices whenever he is competing with the cinema.

(2) As stated above, unfair competition *contra bonos mores* is most likely to take the form of misappropriation of the work of others. Such misappropriation exists when television broadcasts are used without prior authorisation in cinemas or when films are similarly broadcast on television, thereby taking advantage of the fruits of other people's labour. The projection of television broadcasts in cinemas is nothing but a systematic exploitation of the efforts of the broadcasting agencies coupled with an economy in expenditure which would normally have to be borne by the cinemas. Only a short while ago the Federal Court [2] stated afresh its views on this problem of the misappropriation of the work of others; its findings were that it was conduct contrary to public policy deliberately to derive advantage from another person's goodwill. The important thing is not so much to protect the product of the work as such, but rather to prevent the irregular utilisation, *i.e.* the direct misappropriation, of this work by third parties. When the principles enunciated by the Federal Court are applied to the body of questions under consideration, it will be apparent that such misappropriation is present in these unauthorised, if reciprocal, borrowings.

(3) Actions for unfair competition may arise out of the use of the same title or a title so similar that it may lead to confusion.

It is true that it is established upon the authorities that in certain circumstances a title may enjoy copyright protection as well, as for example when it constitutes an act of original creation on its own merits, *i.e.* a work within the meaning of Section 1 of the Copyright (Literary Works) Act. But such titles are few and far between, and consequently the use of an identical or colourably imitated title is in practice seldom the subject of proceedings for infringement of copyright.

A further source of protection for titles is to be found in Section 16 (1) of the Unfair Competition Act. This provision contains a prohibition in terms against the use of the particular appellation of a printed publication in the course of business in a manner calculated to cause confusion with the particular title legitimately used by another publication. Section 16 (1) of the Unfair Competition Act refers in this connection only to the title or appellation of a printed publication, as this provision, when originally drafted, was designed to apply to the products of the book publishing trade. However, both the courts and the authorities have long since recognised that protection must likewise be granted to the titles of films and theatrical works [1].

Extrapolating on this generally accepted legal interpretation of the purpose and meaning of Section 16 (1) of the Act, the Hamburg *Landgericht* and the Hanseatic *Oberlandesgericht*, in their judgments on the *Kleine Leute - Grosse Reise* case, both considered the title of a television broadcast to fall within the scope of Section 16 (1). If the cinema denotes a different work by the same title used for a broadcast on television, it will in so doing commit an infringement of Section 16 (1) of the Unfair Competition Act.

This is not the place to explore the other question which played a part in this case, namely whether protection for titles applies only to works properly so called, or whether a television lottery or the promotion of a television lottery will fill the bill as title-bearer. The only thing that matters is the fact that titles of television broadcasts as well as titles of films are eligible for protection under the law on unfair competition, and that the use of an identical or potentially confusing title is likely to give rise to a lawsuit under Section 16 (1) of the Unfair Competition Act.

Similarly, a television organisation would infringe Section 16 (1) of the Act by designating a television play or other broadcast by a title previously used by a film maker for a film and in which protection still subsisted.

Special problems can arise if the author of a work, say a play or a novel, makes over his screen rights to a film company and his television rights to a broadcasting organisation and both perform their own adaptations of the work. If the title of the original work is used, as in the *Liebelei* case, neither the broadcaster nor the film maker can restrain the other from using the title on the grounds of priority of use, since the original work already bore the title. The position is, however, different if a special title—in the *Liebelei* case the title *Christine*—

[1] Cf. the judgments cited in footnotes on page 24.

[2] Federal Court ruling of 21st November 1958. Col. I ZR 61/57 - *Nelkenstecklinge.*

[1] Baumbach and Hefermehl, *loc. cit.*, 7th ed., section 16, footnote 96.

is chosen for the film; in such a case the television organisation would obviously not be entitled to apply the title *Christine* to the television programme based on its own adaptation.

(4) In the same way, it is an act of unfair competition for a film distributing firm to make an explicit " tie-in " with a television broadcast while at the same time using the title of this broadcast for the film. It would be equally unlawful for television to use the goodwill of a film for publicity purposes when it was not permitted to televise the film itself, but was entitled to take the plot of the film as the subject matter for a television play because the television rights had been acquired from the original author. In the first place, such action would deceive people into thinking that the film and the television broadcast had the same subject matter, that both benefited the same interests and that some business connection existed between them. In addition, it would be using the reputation of others for one's own business ends. Admittedly, an attempt by a competing party to turn the work or services of a competitor to his own advantage is not *contra bonos mores* in principle, but such behaviour is in breach of competition when the deliberate intention behind it is to exploit the public's association of quality with the distinctive features of the merchandise or service in question, with which the public is familiar, to boost his own wares.[1]

Independently of the possible danger that the risk of confusion may adversely affect the good name of the competitor or of his wares through no fault of his own, and hence occasion actual loss to him, the type of exploitation described above in itself constitutes the same misappropriation of the goodwill and work of others as unauthorised borrowing does, and is equally contrary to public policy.

## IX

Generally speaking, unfair competition proceedings between motion picture and television interests are not likely to present any special complications, and redress will be in keeping with the demeanour of the competitors in the past. To this extent their respective legal positions will be those of any other competitors.

Nevertheless, the *Kleine Leute - Grosse Reise* case cited above shows that even in this field considerations of copyright may obtrude themselves upon the judgment. Although the title dispute was purely a question of unfair competition and was tried as such in the lower court and on appeal, the depositions show that copyright considerations may at times be a contributory factor. In the case in point this is apparent from the fact that in both works a " hit " tune was used, the rights in the words and music of which belonged to their respective authors. The title of the " hit " tune coincided with the chorus line of the tune, which did not originate with the lyric writer but was suggested by the person who had got up the broadcast for television and who, according to the lyric writer, had relinquished his copyright in this line to the lyric writer. In the proceedings for the interim injunction it was not possible to establish the facts of the case as such in an altogether satisfactory manner. No agreements in writing were produced, and in particular no proof could be adduced that the right to use the title had been ceded to the lyric writer or the composer unconditionally, to wit, so extensively that the title could be conveyed away as the title for a film. The authors of the song were undeniably within their rights in parting with the screen rights to the tune itself, but in so doing they were not entitled to give the film company the authorisation to give the same title to the film, especially when the designation of a film by this title was an invasion of the competitive rights of the television organisation. After the negotiations with the publisher of the tune, however, the film company had taken it for granted that he was empowered to assign the title. All this only goes to show once again how necessary it is in each case for all the parties to define unequivocally which rights belong to the individual and which rights are merely handed on, and in particular which rights may be further assigned. It is accordingly highly desirable in every case to make searching enquiries and where applicable to demand documentary confirmation before embarking on investments—which both in cinematography and in television may run into very considerable figures—in reliance upon assignments which in fact are unable to convey any genuine right.

## X

The competition between the two institutions is still a new thing in Germany, and in point of fact it is only now becoming noticeable, what with the incessant complaints by the exhibitors that the growth in the number of televiewers is causing a falling off in cinema attendances. This development will not strike at the vitals of the cinema, for the cinema, like television, has its own justification and its own tasks to perform. Cinematography will subsist alongside television, just as the theatre has already amply demonstrated its *raison d'être* alongside the cinema and television.

The grim economics of competition, however, force us to establish clear fronts and well-marked boundaries, and hence also to pay more careful attention to the legal foundations on which they stand. Since in almost all of their presentations the motion picture industry and television are dependent on the rights of all sorts of people it is inevitable that the true whereabouts of these rights should be methodically checked. This is a field in which the legislature can give little lasting help. With respect to individual rights a few precise instructions might perhaps be of assistance, though the financial returns to the authors must in no way suffer in the process. Something, too, could be done by means of statutory presumptions. But the bulk of the work will always fall to those who in films and television are compelled to create their works in dependence on copyright.

[1] Cf. BGHZ 5, p. 1 ff. - Hummel.

# NEWS AND INFORMATION

## COUNCIL OF EUROPE

**Third Session of the Committee of Legal Experts on the Exchange of Television Programmes.** — The Committee of Legal Experts, which some time ago prepared the European Agreement concerning Programme Exchanges by means of Television Films [1], held its third session in Strasbourg from 29th June to 1st July 1959 at the call of the Secretary-General of the Council of Europe. Eleven member countries of the Council of Europe sent government representatives, the Government of Switzerland was represented by an observer and several governmental and non-governmental international organisations attended the sittings. There were three items on the agenda, namely *(i)* consideration of the agreement between the EBU, the International Publishers' Association and the first two Federations of CISAC concerning the problem of the delimitation of repertoires; *(ii)* unification of European legislation in regard to the protection of television broadcasts, and *(iii)* miscellaneous items.

The main question which, as was to be expected, took up most of the discussion was the second item, for this involved laying the groundwork for the international protection of television broadcasts in Europe, an urgent problem if ever there was one and a subject which in the absence of express legislative provisions has already given rise to much difficulty and was the issue in the case recently tried by the Hamburg *Landgericht* [2] as the court of first instance. Before examining the question on its merits, the Committee of Experts had first to consider the scope of its terms of reference as defined by the committee of Ministers and whether it was desirable to contemplate bringing the matter under regulation now, without waiting for the Universal Convention for the protection of ancillary rights. Only after answering these two liminary questions in the affirmative did the Committee begin its consideration of the principles which should underlie the proposed instrument, taking as a guide the existing two draft Conventions in the field of ancillary rights. By drawing on this material the Committee managed to draw up a whole list of rules which should be written into the projected European treaty. Television broadcasts should be protected against retransmission, fixation and communication to the public, with certain exceptions to enable national legislatures to limit the protection having regard to the purposes for which broadcasts are used. Broadcasts would be brought within the protection of the Convention by either one of two tests, namely whether the television organisation falls within the jurisdiction of a country that is a party to the treaty, or whether the broadcast is made from such a country. Protection would not lapse before the end of a period of ten years. The protection established by the treaty would be a minimum only, and in addition any other source of law which could be relied upon to protect those broadcasts would remain unaffected. The protection of television broadcasts would in no way affect the rights of other holders of copyright in the broadcasts, e.g. copyright proper, performers' rights, the rights of record manufacturers, film makers, etc.

As is usual in such a context, certain governments entered reservations or recorded their specific interpretations of the various problems under discussion. One government held that before proceeding further the Committee should seek new and explicit terms of reference from the Committee of Ministers, and further that it would be more expeditious to await developments concerning the Universal Convention on ancillary rights before embarking on a regional treaty, even though it was confined to protection for broadcasts.

After adopting a general report for submission to the Council of Ministers the Committee adjourned its work with a view to resuming it at the call of the Secretary-General of the Council of Europe.

The Chairman of the Committee was Professor Bodenhausen (Netherlands), assisted by Professor Eugen Ulmer (Federal Republic of Germany), the Vice-Chairman. The general report was prepared by Mr. Lenoble (France), the Rapporteur of the Committee.

## AUSTRIA

**The Latest Austrian Judgment on Outside Aerials.**— The detailed discussion of the legal problems of outside aerials which appeared in the August 1958 issue of the *E.B.U. Review* (No. 50 *b*) contained a reference to the special statutory position prevailing in this field of law in Austria and the fact that at that date the " aerial question " had never been finally settled by the Austrian courts.

Since then the question of aerials has come up in the Supreme Court for the first time, and the much awaited judgment has now been delivered by the highest judicial authority for Austria. As it is extraordinarily favourable to the overwhelming majority of radio listeners and the television audience in particular, and as the arguments adduced therein should be of interest to everyone, even in other countries, the grounds for this judgment are given below in their essentials.

The Court proceeded on the basis that the erection of an outside aerial on a block of flats by the tenant of one

[1] See *E.B.U. Review*, No. 53 *b*, p. 40.
[2] See *E.B.U. Review*, No. 55 *b*, p. 29.

of the flats should be deemed to be an " alteration to the tenement " and hence considered from this angle in law. The Austrian Rent Act contains a special section (Section 18) on the subject of such " alterations to the tenement ", the provisions of which are as follows:

(1) The landlord cannot prohibit the making of alterations to the tenement which do not require an official building permit and either correspond to the customs or usages or serve some material interest of the tenant, provided that such alterations do not entail damage to the house or prejudice the lawful interests of landlord or tenant, especially by impairing the outward appearance of the house, or constitute a danger to life and limb. The cost shall be borne by the tenant.

(2) The laying on of electric light and power, gas, water and the telephone in particular shall be deemed to be alterations within the meaning of subsection (1) above.

(3) On the expiry of the tenancy the tenant shall restore the property to its former state, unless an agreement is reached to the contrary.

(4) If the alteration involves the use of parts of the house which the tenancy does not entitle the tenant to use, the tenant shall upon request pay the landlord a reasonable consideration for such use.

This legislation—the material features of which have been in force in Austria for the last 50 years—had already been construed by the courts as not allowing the landlord to prevent the tenant from erecting an outside aerial (e.g. a roof aerial, loft aerial, window aerial, mast aerial, etc.) precisely because such an aerial can only be held to be an " alteration to the tenement " which is in keeping with the customs or usages and serves a material interest of the tenant.

The question newly settled by the above-mentioned Supreme Court judgment which has just been promulgated was whether the landlord is entitled to demand a single or even a regular payment for permitting or suffering the tenant to erect such an aerial.

The Supreme Court has now denied the landlord any right to demand any payment whatsoever under this heading, and has done so, moreover, on the authority of Section 18 of the Rent Act cited above.

Subsection (4) of this provision, it will be remembered, requires a reasonable consideration to be paid at the landlord's demand if the " alteration to the tenement " —i.e. the installation of the aerial on the roof or in the loft—encroaches upon parts of the house which may not be used by the tenant on the strength of his lease. This language has lent itself on numerous occasions in the past to the mistaken interpretation that an appropriate payment must be made by the tenant in respect of the aerial—when installed on the roof or in the loft—since by virtue of his lease the tenant only acquires rights to the apartment and its appurtenances (cellar, attic, etc.), but is not in a position to assert rights to the roof or loft, as the case may be. This tentative interpretation of the statute has now, however, been declared totally erroneous by the Supreme Court, which has taken the view that the tenant's lease entitles him not merely to the flat but also to certain rights of user over other parts of the building external to the apartment itself, in so far as these are in practice necessary to enable him to enjoy modern standards of gracious living. The point is that the landlord is obliged under any parol or written lease, whatever its specific contents, to allow the tenant to enjoy a contemporary standard of home comfort—and this does not merely mean that electric light and power, gas, water and the telephone should be made available to him, but also means that he should be guaranteed proper, interference-free reception of sound radio and television. Under these circumstances, therefore, it is the right of every tenant to utilise the roof or the loft to erect an aerial, a right which he automatically acquires upon his first payment of the rent. Admittedly this view is tenable only so long as the aerial is not of such an extraordinary type that it substantially spoils the outward appearance of the house, or presents a safety hazard. Naturally there is little chance of the former occurring nowadays, when outside aerials of all kinds and television aerials in particular are part of the everyday scene in towns all over the world and are taken for granted; and any danger to life and limb is out of the question if the aerials are put up by competent specialists.

As one might imagine, this sensational decision by the Supreme Court has brought much rejoicing in radio circles and among house tenants generally. This realistic judgment has rendered it superfluous to approach the legislature to promulgate special legislation or regulations on the question of outside aerials, as has been necessary in some other countries in recent years.

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## FRANCE

**Interpretation of Article 9 of the Berne Convention. Judgment of French Supreme Court.** — On 17th May 1952 a Brazilian publishing firm, O Cruzeiro, published in one of its magazines some photographs taken by two of its staff photographers. Shortly afterwards, on 25th May 1952, these same photographs were reproduced without permission and without payment by *Radar*, an illustrated tabloid published in Paris by Editions Nuit et Jour, a French concern. When the Brazilian company brought suit against Editions Nuit et Jour for damages in the Commercial Tribunal of the Seine (Paris) the court dismissed its action. The Paris Court of Appeal took a different view of the matter and gave judgment against the French firm. The latter's appeal from this judgment to the *Cour de Cassation* was dismissed in a judgment handed down on 5th May 1959.

The case was common enough in itself, and would not be worthy of mention here if it had not involved an interpretation by the French judicial bench of Article 9 of the Berne Convention. It will be recalled that this

Article consists of three paragraphs; the first paragraph expressly grants protection to " serial stories, tales *(nouvelles)* and all other works... published in... newspapers or periodicals "; the second sanctions the reproduction by the Press of articles on current economic, political or religious topics unless the reproduction thereof is expressly reserved, while the third states that this protection shall not apply to " news of the day or to miscellaneous information *(faits divers)* which is simply of the nature of items of news ".

The defendant company had argued that the photographs it had reproduced should be treated on the same footing as the news of the day or *faits divers* referred to in paragraph 3 of Article 9 of the Convention, and that they should be denied protection. The Supreme Court declared that the provision in question, being a denial of protection of any sort, constitutes an exception to the general principles of the Convention and should therefore be construed restrictively; for that reason it was inadmissible to apply by analogy the exemption granted to news of the day and miscellaneous information.

This finding has an immediate bearing on broadcasting. At the Rome Revision Conference in 1928, the Broadcasting Subcommittee which was considering the inclusion of a new Article 11 *bis* in the Convention thought fit to mention in its report that " if reproduction is lawful (e.g. if a newspaper article may be reproduced under the provisions of Article 9), the author would not be entitled to sue for damages on the grounds that the reproduction was by way of broadcasting ". In other words, the Sub-committee was of the opinion that the exemption granted under Article 9 for reproduction from one newspaper to another or from one magazine to another automatically extended to use on broadcasting. The above-mentioned judgment of the French Supreme Court runs counter to this. If it is true that Article 9, being an " exception " clause, must be construed strictly, the broadcasting organisations cannot rely upon it because the only express reference in the provision is to reproduction by the (written) Press. In view of the fact that some of the authorities maintain that the preliminary deliberations and reports on a Convention cannot be held against the actual text of the Convention, it is evident that a revision of Article 9 is called for if it is desired to establish beyond doubt that what is permissible for a newspaper is equally permissible for " newscasting " on the radio.

## GERMANY (Federal Republic)

**Use of Phonographic Records for Motion Picture Sound Tracks. Judgment of the Hamburg Landgericht.** — The question which the Hamburg *Landgericht* had to answer in its judgment of 18th December 1958 was whether a record manufacturer who was a party to the BIEM/Record Industry standard contract could license a film maker to copy records on to the sound track of a film without the prior authorisation of the holder of the synchronisation rights.

The Deutsche Grammophon G.m.b.H. had authorised film makers to re-record commercial records manufactured by it on cinematographic film, and had included a stipulation in the contract to the effect that the film maker was solely responsible for the observance of copyright regulations and undertook to secure, in addition to the authorisation given by the manufacturer, the authorisation of the copyright holder, *i.e.* GEMA.

BIEM thereupon sought an injunction against the manufacturer requiring him to cease and desist from such an operation without its consent. BIEM's case was that the manufacturer by so doing had overstepped the authorisations granted to him under the standard contract. The latter contract merely authorised him to make mechanical reproductions of the works in the BIEM repertoire, to copy these recordings and to offer the copies thus made for sale to the public for exclusively private use. Section IV of the standard contract expressly excluded reproduction for the purposes of accompanying a visual performance of any nature whatsoever, and hence the manufacturer could not part with rights that he himself had not acquired. Generally speaking an adapter, whether real or fictitious, can exploit his adaptation only to the extent that the rights of exploitation are granted to him by the original author.

The defendant company argued that BIEM was not the holder of the right to use the works in question in the sound tracks of films and could not on that account take unto itself the right of prior authorisation in connection with the use of works in films. Furthermore, the defendant had granted authorisation to incorporate the works into a film only on the strength of the fictitious adapter's copyright assigned to him by the performer, and the film maker had been expressly told to obtain the consent of the author of the work thus adapted. As for the standard contract, this document governed only the mechanical rights, and it could not govern the use made of the reproduction thus authorised. The publishing rights, for example, did not give their holder the power to forbid the use of the book to prop up the legs of a rickety table. The mechanical rights ceased to be effective once the copies were put into circulation. Lastly, Sections IV and V of the standard contract, which forbade broadcasting, public performance and the use of the work in sound tracks, were intended only to show that the rights relating to these operations were not covered by the standard contract. The BIEM was therefore unable to prevent these rights being obtained direct from those persons who were their rightful holders.

In its judgment, the Court enjoined the defendant from allowing film makers to copy the mechanical contrivances made by the defendant reproducing works in the plaintiffs' repertoire on to the sound tracks of films without the plaintiffs' consent, unless the film makers obtained the necessary authorisation from the holder of the synchronisation rights.

In the grounds for its judgment the Court included the following points:

(1) Generally speaking BIEM is the holder of the synchronisation rights, as appears from the broad drafting of its rules and regulations. However, in its internal dealings with those whom it represents, the BIEM is required to consult the original holder of copyright before granting licences or authorisations. This restriction follows from the wording of the mandates in question, and its purpose is to prevent cases of double transfers of the same rights.

(2) The restrictions imposed on the manufacturers by the standard contract with respect to sale to the public for private use are limitations on the rights of exploitation and not merely on the use of copies. Even if it is true that the defendant cannot control the use made of his records by the purchaser and cannot be held responsible for copyright infringements committed by the purchaser, he is not permitted to perform operations which go beyond the authorisation granted under the standard contract.

(3) Undoubtedly there vests in the manufacturer a fictitious adapter's copyright for which he can demand a fee. However, he is not in a position to authorise without BIEM's consent the reproduction of records on film sound tracks, and if he does so he will be exceeding the rights he obtains from BIEM. In this connection the provisions of the standard contract are quite clear.

(4) The adapter's copyright is subordinate to that of the original author. The adapter cannot turn his adaptation to account without the authorisation of the author of the work thus adapted. It does not follow from the standard contract that the original copyright holder had given permission for the use of the adaptation in motion pictures.

(5) The clause in the contract between the defendant and the film makers is not enough, because it does not state that the permission to use the work in a sound track is valid only if the holder of the original right has given his consent *beforehand*. It follows—and this is the essence of the judgment—that the manufacturer cannot authorise the copying of his record unless he has first satisfied himself that the authorisation of the holder of the synchronisation rights has been obtained.

**Moral Rights of Performers. Judgment of Munich Oberlandesgericht.** — After the judicial recognition—and in some countries the legislative recognition—of a right in one's likeness (the *jus imaginis*), it looks as though things are moving in the direction of recognition of a right in one's voice (which might be called the *jus vocis*), similarly derived from the right to intangibility of the person. It happens in both film-making and television that a film will be shot in a silent version and a sound track dubbed in afterwards ; in this dubbing process, which is done for technical aesthetic or linguistic reasons, the actions depicted are put to words spoken by persons other than those who will appear on the screen. So far as is known to the Editor, there has not hitherto been a lawsuit involving this aspect of motion picture making and television, and that is why the judgment summarised below is of outstanding importance.

The action was brought by a film actor who considered himself aggrieved by a producer on account of the fact that the latter had had the part played by the plaintiff dubbed in by someone else, not in a foreign language but in the original language of the film. Giving judgment on 7th August 1958, the Munich *Oberlandesgericht* found for the plaintiff, granted an injunction to restrain the exhibition of the film and awarded damages. There is no appeal from this judgment.

The judges based their decision on the general right to the intangibility of the person, holding it to be an absolute right enforceable against all comers. This right is infringed when one actor's voice is replaced by the voice of another, because this amounts to " a breach and a distortion of personality ". Emphasising the fact that the dubbing was done in the original language of the film, the Court rejected the arguments which the defence sought to draw from the customs and usages of cinematography and the business interests of the film maker. It confined itself to a finding that the contract between the parties made no provision for such dubbing, and that the plaintiff had consequently not given his assent to this encroachment upon his personal rights.

Parts of the judgment are commented on in *Film und Recht*, an interesting publication put out by the Institute of Film Law, whose headquarters are in Munich.

## UNITED KINGDOM

**Ephemeral Recordings. Decision of the Performing Right Tribunal.** — Section 6, subsection (7) of the recent British Copyright Act provides that where by virtue of an assignment or licence a person is authorised to broadcast a literary, dramatic or musical work, he or she may make reproductions of it solely for the purpose of broadcasting the work without the authorisation of the holder of the mechanical rights and without paying a fee. The same subsection forbids the making of any further reproductions from the recording thus made and requires it to be destroyed before the end of a period of 28 days from the day on which it is first used.

When Southern Television Ltd., one of the programme contractors to the ITA and the applicants in this case, applied to the Performing Right Society Ltd. (defendants) for a contract covering the right to broadcast the world-wide repertoire of the Society (which controls *petits droits*), the latter made it a condition that the applicants should undertake not to record any work in the defendants' repertoire without authorisation of

the holders of the mechanical rights. The purpose of this clause, as was subsequently admitted before the Tribunal, was to compel the applicants to forgo the benefit of the above-mentioned provision on the subject of ephemeral recordings.

Taking the view that it was unreasonable to insert such a stipulation in the contract with the defendants, the applicants referred the matter to the Tribunal for it to determine, in accordance with the Copyright Act, the terms for the applicants' use of the defendants' repertoire which it considered to be reasonable in the circumstances. The BBC made itself a party to the reference on the applicants' side, although in its contract with the defendants it had agreed to a clause expressly designed to contract out of the subsection on ephemeral recordings. On the defendants' side, three organisations administering mechanical rights in the United Kingdom, namely the MCPS, the MRS and the Sound Film Music Bureau, applied to be made parties to the reference. The ITA itself and the other programme contractors, on the other hand, did not intervene in the case.

The Tribunal refused to consider whether or not the applicants were actually entitled to avail themselves of the statutory provision on ephemeral recordings, holding that this question was not relevant to its award. The issue was clear: either the applicants were not in any event entitled to benefit under the said provision, in which case the clause was superfluous, or else they were entitled to claim for themselves the right to make ephemeral recordings, in which case the disputed clause was intended to deprive them of an advantage which Parliament had seen fit to grant them. If Parliament found it expedient to invest someone with a certain right, the inference was that the right was a reasonable one, and that it was accordingly unreasonable to seek to compel the beneficiary to waive it. The clause at issue would not be out of place in a contract if the party whom it deprived of a statutory advantage agreed to its inclusion, but in the case before the Tribunal, the applicants had refused to assent to such a clause. It was therefore the duty of the Tribunal to find that this clause should be deleted and that it should not be included in the contract offered by the defendants to the applicants.

The Tribunal incidentally refuted two arguments put forward by the defendants. The latter had maintained that when Parliament had written ephemeral recordings into the Act, it had certainly not intended to enable the beneficiaries of this provision to enrich themselves at the expense of the holders of the mechanical rights, and, if they were now deprived of the possibility of recouping their losses directly, there was nothing to prevent the defendants from doing so on their behalf through the conditions it imposed on those contracting with them. The Tribunal held this to be a fallacious argument, pointing out that if Parliament had wished to prevent any impoverishment of the holders of mechanical rights, it could easily have abolished the requirement of prior authorisation for ephemeral recordings but nevertheless make them attract a fee. And that was precisely what it did not do.

The defendants further took the point that their contracts with other ITA programme contracting companies obliged them to grant the same advantages to the latter companies as they might be required to accord to the applicants, by virtue of the " most-favoured-nation clause " written into these contracts. The Tribunal likewise rejected this argument, noting that it would not be reasonable to put the applicants at a disadvantage merely in order to save the defendants trouble for which they themselves were responsible as the result of contracts which they had entered into of their own free will and to which the applicants were not a party.

The defendants were ordered to pay the applicants' costs on this reference.

**Copyright Act of 1956. Statutory Licence.** — The interpretation of Section 8 of the Copyright Act, 1956, which provides for a statutory licence for gramophone records, was the issue in a recent action in the United Kingdom. The case went up to the House of Lords and produced an authoritative ruling on the scope of the provision in question.

The case was previously reported in No. 47 *b*, p. 49, and No. 48 *b*, p. 31, of the *E.B.U. Review*. Chappell and Co. Ltd, the publishing firm, and Winneton Music Corporation, as sole licensees and owners of copyright in a dance tune called *Rockin' Shoes*, had brought an action against The Nestlé Co. and the Hardy Record Manufacturing Company, alleging that they had infringed the copyright by producing and offering records for sale to the public at 1s. 6d. plus three wrappers from Nestlé chocolate bars without obtaining the plaintiffs' authorisation, on the strength of the statutory licence provisions. The plaintiffs' argument was that this transaction could not be regarded as an " ordinary retail sale " of records within the meaning of the Copyright Act and that the price of 1s. 6d. did not represent an " ordinary retail selling price " which would permit the fair assessment of the royalties for which the Act provided. The first judge found for the plaintiffs and granted an injunction to restrain the defendants from continuing their operations, but gave a stay of execution in respect of recordings already made pending a decision by the Court of Appeal. The latter reversed the judgment and decided by a majority of two to one that the transaction constituted an ordinary retail sale which justified the application of the statutory licence system. The Court of Appeal nevertheless gave the plaintiffs leave to appeal to the House of Lords.

The House of Lords, allowing the appeal, affirmed the decision of the first judge by ruling that a cheap sale of records to purchasers of chocolate is not an ordinary retail sale enabling the vendor to require the copyright holder to accept a royalty calculated on the selling price.

Two of the Lords of Appeal in Ordinary judging this appeal were of the opinion that the operation was similar

in all respects to an ordinary sale and that there were no grounds for refusing the defendants the right to apply the statutory licence. The fact that the purchaser had to attach three chocolate wrappers in addition to the 1s. 6d. did not change the actual price of the records, since those wrappers were of no value in themselves to the Nestlé Co., which merely threw them away. However, the majority of the Lords held that the transaction in question was not what Parliament had had in mind. Parliament had contemplated sales at normal prices and not transactions in which the retailer would fix the price to suit himself, without any relation to the ordinary economic price. Parliament would never have established a relationship between the royalty and the retail price if it had been thinking of transactions in which possibly the main part of the consideration was to be other than money.

### UNITED STATES

**First Judgment Against the AFM.** — Mention has several times been made in this publication (in particular in No. 42, p. 174, and No. 55 *b*, p. 32) of the suits brought by the Californian musicians against the American Federation of Musicians for having paid into a Fund certain supplementary remunerations obtained under agreements with the record manufacturers and motion picture companies, while in the opinion of the musicians concerned these sums were wage increases which ought to be paid to them individually.

The American press now carries the news that Judge Clarence L. Kincaid of the Los Angeles Superior Court, in a judgment handed down on 22nd April, has ruled that approximately $1.8 million paid into the Fund by the record manufacturers should be restored to the plaintiff musicians. The Judge thereby recognises the validity of the claim of the 6,000 musicians that the sum in question represented a wage increase of about 21% and could not be diverted to swell the fund.

The general counsel of the AFM announced that appeal would promptly be lodged against this decision which, if upheld, would certainly constitute a first step towards the disintegration of the Fund and the end of the collective agreements entered into by the AFM over many years.

## BOOK REVIEWS

**Kulturabgabe und Kulturfonds,** by Erich Schulze. Franz Vahlen G.m.b.H., Berlin and Frankfurt-am-Main, 1959.

Mr. Schulze, in his unceasing efforts to improve the author's position, combines the task of directing the German performing right society, a job that would absorb and indeed weary many a lesser man, with his private work as a publicist. New works flow constantly from his pen, and of these the latest deals with the problem of the *domaine public payant*, which the German writers call the *Kulturabgabe*, or royalty for the encouragement of the arts.

Not surprisingly the author declares himself to be a wholehearted supporter of this institution. First of all, however, he makes out a forceful and in some respects persuasive case for the perpetual protection of copyright. One has to make a choice. The *Kulturabgabe* presupposes that the proceeds of works that have fallen into the public domain should be used to establish a fund for the encouragement of the arts, which would apparently be a relief fund for authors. If the latter scheme is adopted, there would no longer be a public domain, and hence the source of revenue accruing to the fund would dry up. Perfect distributive justice would thenceforward prevail: the immortal writers would provide their heirs or assigns with a never-ending income. In logic this is fair enough, and I willingly acknowledge the law-maker's power to determine the term of copyright, whether limited or unlimited. Once the work has been divulged, it really belongs to all, and the author retains his initial sovereignty only by the will of the ruler. The latter is thus free to choose for what period the presumption of relinquishment to the general public will be inoperative. Why not go all the way and postpone the advent of the public domain until Doomsday? Mr. Schulze suggested this in connection with the latest work on the revision of German copyright legislation, but he abandoned the idea of applying his theory fully and retroactively, and of returning to the copyright field all the works already in the public domain which he seeks to abolish. He must have foreseen the difficulties, which would have been formidable ones. Hence his complementary proposal to establish an arts fund by means of payments out of the proceeds from works not in copyright at the commencement of the Act to make copyright of unlimited duration.

I dare say Mr. Schulze has no great illusions as to the chances of literary and artistic property in Germany being placed on the same footing as the traditional forms of property, immune to the ravages of time. Copyright expires almost everywhere at the end of a certain term of years after the author's death, and as far as we mortals can judge it would be Utopian to try to convert it into a perpetual right. But that does not weaken the arguments in favour of the *domaine public payant*. On the contrary, it is when protection is fated to lapse that the situation is most propitious for the institution of an

over-all collection system to establish an " arts fund ". If copyright no longer has the millstone of limited, if variable, duration round its neck, it will become impossible, as we have seen, to broaden the scope of the *domaine public payant* in step with the increase in the category of non-copyright authors capable of being laid under contribution.

As I have said, the question whether the *domaine public payant* is or is not to be recommended is answered by Mr. Schulze in the affirmative. Like the incomparable propagandist that he is, he draws on illustrations to drive his points home. With the aid of well-chosen examples (Wagner, Johann Strauss senior and junior, Suppé, etc.), he compares the statutorily limited and now expired term of copyright of these composers to the no less statutory permanence of various large industrial undertakings (the Rockefeller group, the Oetker shipbuilding firm, and the Opel motor works). To tell the truth, this subtle and thought-provoking parallel is chiefly a weapon for Mr. Schulze as the defender of perpetual copyright, as being a measure calculated to restore the balance between the intellectual and the industrialist. But it can also be said that the *domaine public payant* would enable relief to be given to authors and their families who are in hardship or in need; a perpetual copyright, on the other hand, would unilaterally benefit the heirs of well-known authors, who are doubtless occasionally in dire straits (e.g. Lortzing who died in poverty, and whose niece received for her 86th birthday a bunch of flowers and a free ticket given by the municipality of Bielefeld), but who often enjoy all the concomitants of wealth. Our contemporaries, so taken with social security and so conscious of their responsibilities towards the underprivileged—to use the catchwords *à la mode*—might well regard the *domaine public payant* as a means of improving the remuneration for labour and the distribution of material wealth in the field of intellectual creation.

However, one must not blind oneself to the difficulties of such an undertaking; the distribution of the proceeds will whet people's greed and may encourage self-styled vocations that the world would be better off without. For while the work of writers and artists as such is necessary to the public at large, this does not mean that a specific number of individuals should be engaged in this work. Long ago Degas said that the fine arts should be discouraged, and in a wider sense the natural selection that eliminates the weaker brethren makes common sense. Might not the *domaine public payant* act as a kind of charitable rein? I, for my part, am inclined to think so. Nevertheless, Mr. Schulze's essay shows that the idea is in the air, and indeed that several countries (e.g. Belgium, France, Italy, Mexico, Czechoslovakia, Hungary, Yugoslavia and the USSR) have carried it into practice in varying degrees. The provisions in question are, as a matter of fact, rather a motley collection and are hardly comparable one with another. Lumped together under the common denominator of the *domaine public payant*, they form a documentary, rather than a systematic, whole. Our thanks are due to Mr. Schulze for having compiled them with the patient care that he devotes to all his literary enterprises. B. M.

**Charte du Droit d'Auteur — Charta des Urheberrechts** (Charter of the Author's Right). Internationale Gesellschaft für Urheberrecht E.V. Franz Vahlen G.m.b.H., Berlin and Frankfurt-am-Main, 1958.

The *Charter of the Author's Right* is the handiwork of the CISAC, the International Confederation of Authors' and Composers' Societies or, to be exact, of the lawyers on the so-called Legislation Committee of this vast apex organisation. It is not a model Bill, of the sort once drafted by the International Literary and Artistic Association, but a manifesto in which the authors' international sets forth its conception of copyright and the well-springs of its policy.

Close-knit and thought-provoking, the Charter enunciates a number of general notions which, while not new, are nevertheless worth recalling. It does no harm, for instance, to explain that works of the intellect are at once an off-shoot of the author's personality and a source of business interests, which accounts for the dual function of copyright. It is also well to bring out the difference between the literary or artistic work as a creation of form and the invention as a technical creation, the first being the spontaneous striving of genius or talent towards self-expression irrespective of the world around it, the second a link in a chain of earlier discoveries.

This difference affords the authors of the Charter an argument against compulsory licences which, as they see it, cannot be justified by any general public interest. What does this mean? If such an interest were to emerge in circumstances admitting of no doubt, would we really rule out the compulsory licence? If anything is unjustifiable, it is surely this. Though perhaps the authors of the Charter are suggesting that it is inconceivable that a general public interest should be a match for copyright, in which case this opinion should be recorded, with or without a question mark. Anyhow, the thought behind all this is not altogether clear.

The Charter explains very aptly that by exercising the eminently personal right of first publication, the author allows his work to pass from his own sphere of privacy into public and social life, upon terms he himself has fixed. But this change of scenery is bound to make a difference; a work thus launched into society could hardly be treated exactly as if it had never left the " private domain " of its author (I refer to the *Geheimsphäre* dear to German legal writers). The Charter implicitly recognises that the claims of the general public may limit copyright, for it admits that copyright expires at the end of a certain term, though as late as possible, it being understood that the *droit moral* should be perpetual. However, the authors would like this " concession " (for so they regard it) to be the only one, or in other words there should be no restrictions on copyright as long as copyright subsists.

This, to my mind, is wishful thinking. All the laws contain exceptions in respect of copyright, and it would be silly to regard this unanimity as mere unfairness to authors of literary and artistic works. On the other hand, one must insist that the public interest to which the author's interest must sometimes yield should always be conscientiously weighed and proved by decisive arguments. If, for example, charity concerts were given exemption from copyright, would any essential interest of the community be served, especially when the use of the hall, the lighting and the heating have to be paid for? Merely to state the question is to answer it in the negative. Hence any provision calculated to weaken the prerogatives of authorship calls for thorough consideration of the interests involved. The decision will go against the author only when the scales dip clearly in favour of the other party, and the solutions adopted must be re-examined from time to time.

The Charter cites one case where a situation hitherto regarded as satisfactory should be reviewed. The reproduction of a work for private use is still generally permissible without the authorisation of the author or his assigns. The original idea was that only the public uses of a work required the prior consent of the copyright holder, but we now see that the tape recorder puts a different face on the matter. With this invention it is possible nowadays to record on tape performances of musical compositions, recitations of literary works, etc., in such a way as to dispense the recorder from purchasing the work (and the rendering) thus recorded. This is a non-public use, to be sure; should it be countenanced, on the grounds that copyright is not supposed to obtrude itself into private life? A thorny problem indeed. In the first place, the very principle that only public performance of the work is subject to the author's consent is not a universal one, and is foreign to German law among others. In the second place, it is obvious that "fair dealing" with a work for private use should not entail a reduction in the profit that the author can properly expect to receive. The tape recorder implies this danger, whereas hand copying of printed publications is practically unobjectionable. The same applies to photostats and microfilms. It is therefore understandable that the authors should wish to restrain the making of copies that are likely to compete with the right. They call for appropriate solutions on the legislative or contractual plane, though they hope that the steps considered necessary will not check the spread of scientific and cultural knowledge by the above-mentioned means. One cannot but appreciate the intention. In fact everything has its price. If the use of the tape recorder, the microfilm or the photostatic copy were to be regulated in one way or another, the circulation of intellectual property might well feel the effects. But this drawback, if it is one, must be accepted; in the case in point, the interests of the author have priority over the comfort of the consumer (with the possible exception of scientific documentation, for which a carefully limited exemption might be provided).

The Charter naturally devotes one of its chapters to the function of the authors' societies. The latter are at the present time an undeniable force in business: the turnover of SUISA, the Swiss society, ran into some six million Swiss francs in 1958. *Ab una disce omnes.* One is in fairness bound to recognise the great and rewarding promotional campaign carried on by the International Confederation of Authors' and Composers' Societies (CISAC) to link up as many national societies as possible in a network of contracts in which the international protection of authors' rights, so often proclaimed in multilateral Conventions, descends from the pinnacles of theory to the fertile plains of practice where the golden harvest ripens. The international control by authors' societies of the most widely exercised prerogatives of authorship is an achievement of our times, and one that was begun by Beaumarchais in the 18th century. The honour and the merit rest with the administrators and directors in the major "producing" countries who organised the collection and distribution of copyright fees. Nevertheless one might venture to suggest that the deductions sometimes made for expenses and salaries have seemed a little on the high side. True, the authors did not lose anything, since without the societies their receipts would have been much less, and might have dwindled to nothing. But the impression remains that some administrative officials have managed to do pretty well for themselves at the authors' expense. I hasten to add that others have always scrupulously made a point of earning their salaries rather than merely drawing them.

Drafted in excellent French and translated into English, German, Italian, Spanish and Portuguese, the *Charter of the Author's Right* is a skilful digest of the authors' doctrine. I regard it more as a policy statement than a legal treatise. This is not a criticism—far from it. The Confederation is bound to uphold a policy of its own. Copyright, as a legal instrument binding on the community in a special field, comes within the purview of the legislative authority, which will seek to balance interests against requirements.

B. M.

# E.B.U. ACTIVITIES

## TWENTIETH MEETING OF THE ADMINISTRATIVE COUNCIL

The EBU Administrative Council, accepting the kind invitation of the RAI, met in Rome from 29th May to 1st June 1959 at the headquarters of the Radiotelevisione Italiana, under the chairmanship of the President, Sir Ian Jacob, assisted by Mr. E. Sundström and Mr. C. Chavanon, Vice-Presidents. There was a full agenda with 21 items including the admission of new associate members, the study of new statutory provisions, the accounts for the financial year 1958, and a number of questions on general and administrative affairs.

The Chairman of the Technical Committee, Mr. E.L.E. Pawley, presented the report of the Bureau of that Committee as drawn up after its meeting in Rome in March 1959. (See *E.B.U. Review* No. 54 *a*, page 48).

Then the Chairman of the Programme Committee, Mr. Marcel Bezençon, commented on the report of the Bureau of the Committee which had been drafted after the meeting in Stockholm in April 1959. Fuller details are given on this subject below.

The report of the Bureau of the Legal Committee was presented by its Chairman, Mr. M. Lenoble; and the Secretary of the Committee, Mr. G. Straschnov, gives an account below of the meeting of the Bureau in Bled (Yugoslavia) in April 1959.

The Director-General of the Radiodiffusion-Télévision Française, Mr. Christian Chavanon, submitted the report drawn up after the Conference on the Development of Sound Broadcasting. More details are given below.

The Administrative Council confirmed in their entirety the proposals submitted to it and placed on the agenda of its next meeting the study of the events which will mark the 10th anniversary of the foundation of the EBU in Torquay on 11th February 1950.

The next meeting of the Administrative Council has been fixed for Saturday 24th and Monday 26th October 1959 at the headquarters of the Union in Geneva.

## THIRTEENTH MEETING OF THE BUREAU OF THE PROGRAMME COMMITTEE

Under the chairmanship of Mr. Marcel Bezençon, assisted by the two Vice-Chairmen, Mr. Cecil McGivern and Mr. Jean d'Arcy, and the Director of the Administrative Office, Secretary of the Committee, the Bureau of the Programme Committee held its 13th Meeting on 29th April in Stockholm, at the kind invitation of Mr. O. Rydbeck, Director-General of Sveriges Radio.

This session had been preceded, as is customary, by meetings of GTV/1 (exchanges on film), under the chairmanship of Mr. S. Pugliese, and GTV/2 (direct exchanges), under the chairmanship of Mr. J. d'Arcy. The agenda were particularly heavy and almost all the members of the Union were present at these meetings. The Bureau had a full attendance and studied decentralised production of documentaries and the interest presented by the various series produced so far or in course of production. It took note of the participation of Spain and Portugal in these productions.

The International Agricultural Newsreel continues to develop. A meeting of those responsible for this International Magazine was held in Paris in February 1959 and another meeting is planned for 1960, to take place in Rome.

The International Children's Newsreel interests all members and the Administrative Office has been informed that Nippon Hoso Kyokai TV also intends to contribute.

Mr. Bezençon made a statement on the question of exchanges of news items over the Eurovision network which is being studied by the Rengelink Sub-Group. A second trial series was held in May 1959 and on this occasion there was a greater participation of members than in October 1958.

Exchanges of live programmes on Eurovision play a very important part, and for the period from 1st July to 31st December 1958 there was an average of about four transmissions a week on the Eurovision network. For the few programmes offered on Eurovision, there is a great deal of long and careful preparation to be done at the Administrative Office in close collaboration with the various members. Special programmes were devised to mark the 5th anniversary of Eurovision on Saturday 6th and Sunday 7th June 1959.

As regards the proposals for international quiz games, it seemed to the Bureau of the Programme Committee that in view of the difficulties involved for a broadcast of this type in countries of different languages, the idea should be abandoned for the moment.

Sporting events, which make an important contribution to the programmes transmitted on Eurovision, took up a considerable amount of the Bureau's attention. In this connection, the cooperation between the Legal Committee and the Programme Committee on the question of free access to news should be stressed.

The Bureau of the Programme Committee also studied the participation of the Union in the International Film and Television Council, UNESCO's East-West major project, the Grand Prix of the 1959 Eurovision Song Contest (see *E.B.U. Review* No. 54 *b*, page 46), the 1959 Eurovision Grand Prix of Television Films at Cannes, the Salzburg Prix, and other questions of general interest.

The Administrative Council, meeting in Rome, confirmed in their entirety the recommendations of the Bureau of the Programme Committee.

The next plenary session of the Programme Committee and the 14th Meeting of the Bureau of the Committee will be held in London at the end of September at the kind invitation of the BBC.

## TWENTY-SECOND MEETING OF THE BUREAU OF THE LEGAL COMMITTEE

At the invitation of the Yugoslav broadcasting organisation, the Bureau of the Legal Committee held its twenty-second meeting at Bled in Slovenia from 27th to 30th April 1959. The Chair was, as usual, occupied by Mr. Lenoble (RTF), assisted by Dr. H. Brack (ARD). In addition to the nine organisations which are members of the Bureau, four others were represented by observers, pursuant to a recent decision of the plenary Legal Committee granting admittance to meetings of the Bureau to organisations not having a seat thereon.

The questions discussed were numerous and important, the business consisting partly of proffering suggestions to the Administrative Council regarding the policy to be adopted in certain fields of interest to the EBU and partly of proposing solutions concerning dealings between member organisations on the occasion of programme exchanges.

In the former category were the questions arising out of the activities of intergovernmental organisations. In reference to the preparation of a Convention for the protection of ancillary rights, for instance, the Bureau had to review the situation in the light of recent decisions reported in these pages, which suggest that the ILO, the Berne Union and Unesco are reverting to the idea of a single Convention worked out by a committee of experts appointed by them jointly.

The activities of the Council of Europe also claimed the attention of the Bureau, which defined its position towards the Council's move to promote a European accord on the protection of television broadcasts and also approved the agreement entered into with the Music Section of the International Publishers' Association and the First and Second Federations of CISAC regarding the delimitation of repertoires. With regard to the European Agreement on the circulation of television films signed in Paris last December, the Bureau took steps to secure its speedier ratification.

The relations between the EBU and the international performers' federations were carefully reviewed in relation to both television and sound broadcasting. On the subject of television it was reaffirmed that the international Agreement between EBU and the federations on Eurovision justified the retention of the inclusive-fee system instead of the supplements provided for under the Agreement. As regards sound broadcasting it was considered that there would be no point in negotiating an international agreement, since exchanges had hitherto gone off quite smoothly in the absence of international regulations.

Although still somewhat distant, the revision of the Berne Convention stood high on the agenda for the Bled meeting. The broadcasting organisations attach considerable importance to the making of certain alterations in this charter of copyright, and it is never too early to embark on the preliminary consideration of such a vital matter. In its deliberations the Bureau took note of the fact that it had among its members the representatives of Sveriges Radio, the significance of which will be apparent when it is remembered that the next revision of the Berne Convention will take place in Stockholm and that under Article 24 of the Convention the Administration of the host country prepares, with the assistance of the Bureau of the Berne Union, the work of revision. In the same context the Bureau approved and recommended to the Administrative Council the text of a memorandum dealing with Article 14 of the Berne Convention and expressing EBU views on the burning topic of motion picture law.

With the growth of Eurovision and the exchange of video recordings between members of the EBU, it is imperative to have fixed rules on certain matters. The Bureau suggested that the Council should recommend to member organisations that common principles be introduced into contracts commissioning works for broadcasts liable to be offered in the form of relays, films or telerecordings. In addition the Council was asked to approve a standard contract governing the exchange of films and telerecordings between member organisations with a view to reducing the risks inherent in such transactions to the minimum.

On this same subject of Eurovision, various difficult problems had been raised by the two experiments made by certain member organisations in exchanging news items via the European network. These problems are of a financial, administrative and legal nature and require careful solution since they involve interests extraneous to broadcasting and may have repercussions in several different fields. At the initial stage the Bureau confined itself to proposing that the Administrative Council should lay down the principle that a broadcast or part of a broadcast given over the Eurovision network may not be diverted by a relaying organisation for use by an outside body (e.g. a newsreel agency or an organisation not taking the relay of such a broadcast) without the prior consent of the organisation originating the broadcast. The Legal Committee will keep this matter under review in conjunction with the Programme Committee and, if necessary, the Technical Committee.

The Bureau further considered the ineffectiveness of the Unesco international agreements on the importation of cultural materials. Although widely ratified, these agreements are of little benefit to the radio organisations, which are large importers of material and equipment in one way or another. The Bureau asked that Unesco be approached with a view to seeing

what could be done to remedy this somewhat unsatisfactory situation.

The standard contracts between the EBU and outside agencies need revising from time to time to keep them in line with current developments. It had been suggested, for instance, that the EBU/BIEM standard contract on the circulation of recordings of sound and visual broadcasts should be amended in certain respects. The Bureau considered the requests submitted by the BIEM and instructed the Administrative Office to furnish more detailed information on the existing situation, to see whether the proposed revision was warranted.

At the invitation of the BBC, which was unanimously accepted, it was decided to hold the next session of the Legal Committee in London, from 23rd-26th September 1959.

## 1959 EUROVISION GRAND PRIX OF TELEVISION FILMS, CANNES

This event which is held under the auspices of the European Broadcasting Union took place in Cannes, within the framework of the XIIth International Film Festival, from 8th to 12th May 1959. The purpose of the competition is to encourage in a spirit of friendly cooperation the production of filmed programmes of a high standard, specifically designed for use on television. The Eurovision Grand Prix of Television Films is open to all producers of television films, except the radio and television organisations.

This year ten countries participated and some 40 films were submitted to the jury.

The Grand Prix for feature films was awarded to:

*Une simple histoire* by Marcel Hanoun (France),

and for documentaries to:

*L'Essor féminin* by Douglas Tunstell (Canada).

Works that were highly commended in the category of feature films were:

*Eddie* by Jack Smight (United States), for its dramatic qualities and the interpretation of Mickey Rooney, and

*The Girl and the Shoes* by Ib Scmedes (Denmark) for its poetic qualities.

Highly commended in the category of documentaries:

*Arditi del Mare* by Victor de Sanctis (Italy) for its excellent technique.

## CONFERENCE ON THE DEVELOPMENT OF SOUND BROADCASTING

This conference, which was organised at the suggestion of the Radiodiffusion-Télévision Française, was held in Rome on 27th and 28th May 1959 at the headquarters of the RAI-Radiotelevisione Italiana and was attended by representatives from 24 countries.

At the proposal of Mr. M. Rodinò, Administrator-Delegate of the RAI, the Director-General of the RTF, Mr. C. Chavanon, was elected chairman of the conference and the Director of the EBU Administrative Office acted as secretary.

Documents for this meeting had been distributed to all the participants. These included the reports of the ARD (Germany), the BBC (United Kingdom), the Netherlands, the RAI (Italy), Norway, Sweden, Switzerland, the ABC (Australia) and the NAEB (United States).

The Administrative Office, in collaboration with the Technical Centre, has prepared a catalogue of exchanges of radio programmes containing all the necessary information on these exchanges.

The agenda of the conference included the study of the data acquired by each country over a given period of time and the steps already taken, such as improvement in quality, the search for new forms, exchanges of programmes, the search for new audience categories, wired broadcasting, new services rendered to listeners, publicity in television programmes for those of sound radio, coordination of programmes, etc.

The participants also studied how it would be possible to estimate listeners' tastes and needs in the next few years in the light of the development of television.

In conclusion, the participants made suggestions on possible ways of maintaining or increasing the interest in and audience of sound radio and also on the distribution between sound radio and television of the types of programmes best suited to each.

As Mr. Chavanon remarked, the discussion had been very varied and had consisted of a wide survey of the question rather than a detailed study. Participants agreed on the advisability of continuing the study and drafting a well defined questionnaire for members of the EBU on the points which emerged from the discussion. This questionnaire will have to be completed with great care and sent back to the Administrative Office which will analyse the results.

At its 20th Meeting, the Administrative Council decided to set up an ad hoc group to study the development of sound broadcasting. This group, under the chairmanship of Mr. Chavanon, will be composed of representatives at the directorate level of the ARD, the BBC, the RAI and Sweden, as well as the Director of the Administrative Office.

## CONFERENCE ON TELEVISION ADVERTISING

Following the decision of the Administrative Council and General Assembly, a Conference on Television Advertising was held in London at the invitation of the ITA and the ITCA, from 20th-23rd May 1959, under the chairmanship of Mr. Norman Collins and Mr. Bernard Sendall. Fourteen members of the Union took part in this meeting which counted about forty participants.

Sir Robert Fraser, Director General of ITA, gave a report on the different methods of advertising on television after which several rapporteurs spoke on the influence of advertising on television, illustrating their talks with practical demonstrations.

Mr. G. Straschnov, Legal Adviser to the Union, gave an account of the legal problems of television advertising.

The discussions which followed the reports were extremely interesting and the participants hoped that the question of television advertising would be followed more closely by the Union.

**GEORGES STRASCHNOV**

Docteur en Droit

en collaboration avec

**SVANTE BERGSTRÖM**

Professeur
à l'Université d'Upsala

**PAOLO GRECO**

Professeur
à l'Université de Turin

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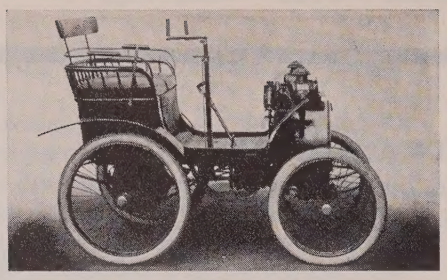

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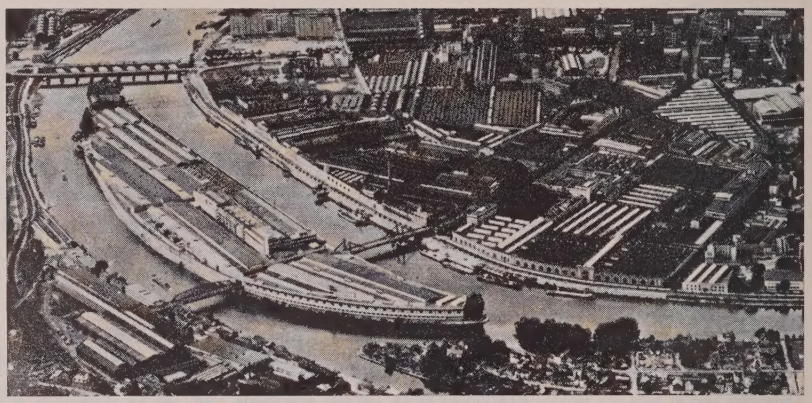

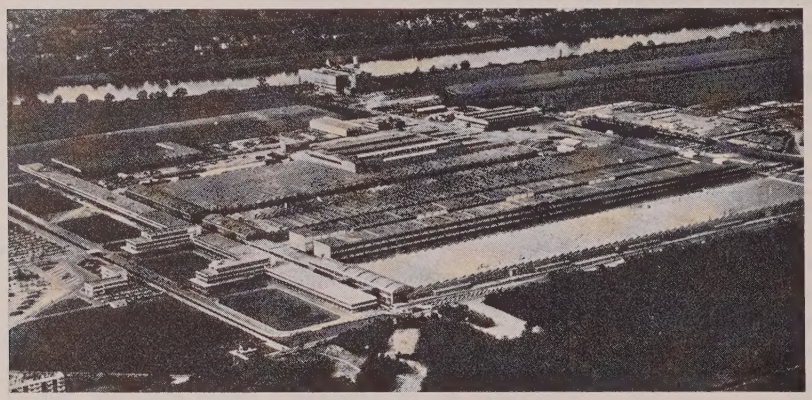

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# EUROPEAN BROADCASTING UNION

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**Italy** — RAI - Radiotelevisione Italiana

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